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United States Department of State

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Foreign  
Relations  
of the  
United  
States



1938

Volume V

THE AMERICAN  
REPUBLICS

Department of State  
Washington



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(In Five Volumes)

Volume V  
The American Republics



United States  
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## EIGHTH INTERNATIONAL CONFERENCE OF AMERICAN STATES, HELD AT LIMA, DECEMBER 9-27, 1938

### I. PRELIMINARIES<sup>1</sup>

#### (a) Decision Not To Postpone the Conference

[BIBLIOGRAPHICAL NOTE: Eighth International Conference of American States, Lima, Peru, December 9, 1938, *Special Handbook for the Use of Delegates* (Washington, Pan American Union, 1938); *Diario de Sesiones de la Octava Conferencia Internacional Americana* (Lima, 1938); Pan American Union, Congress and Conference Series No. 22: *Report on the Results of the Conference Submitted to the Governing Board of the Pan American Union by the Director General* (Washington, 1939); Pan American Union, Congress and Conference Series No. 28: *Steps Taken by the Pan American Union in Fulfillment of the Resolutions Adopted at the Eighth International Conference of American States and Certain Conventions and Resolutions of Previous Inter-American Conferences* (Washington, 1939); Department of State Conference Series 50: *Report of the Delegation of the United States of America to the Eighth International Conference of American States, Lima, Peru, December 9-27, 1938* (Washington, Government Printing Office, 1941).]

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710.H/30

*The Director General, Pan American Union (Rowe), to the Secretary of State*

WASHINGTON, January 10, 1938.

MY DEAR MR. SECRETARY: I beg to inform you that I have just received a communication from His Excellency, the Ambassador of Peru, in which he states that his Government has fixed December 9th, 1938, as the date for the opening of the Eighth International Conference of American States.

I beg to remain [etc.]

L. S. ROWE

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<sup>1</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 1-3.

710.H/40

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

No. 890

SANTIAGO, March 2, 1938.

[Received March 8.]

SIR: Referring to the rumors which appear to have gained some slight currency respecting the possible postponement of the quinquennial Pan American Conference at Lima in December, I have the honor to report that informal conversations here with Latin-American diplomatists do not appear to indicate any active danger that a resolution against communism, if intended as an indirect endorsement of totalitarianism, would be successful at the Conference. The Foreign Minister of Chile incidentally expressed this view this morning; and the Brazilian Ambassador adopted a similar line. (The Venezuelan Minister, however, mentioned very earnestly the damage which is being caused to the democratic ideal in Latin-America by the continued relations between the democratic powers and Soviet Russia, the latter being regarded as outside the pale of governmental decency.)

The address delivered by Under Secretary Welles on December 6, 1937, on the need for tolerance respecting the internal organization of the various countries of Latin-America<sup>2</sup> has made a deep impression in Chile and among the diplomatic corps in Santiago. It seems probable that a number of countries whose present governments are in practical effect far from democratic would consequently rally against any declaration at Lima susceptible of being construed as a moral victory for the European non-democratic group of nations. I venture this opinion with some trepidation in view of my relatively short service in Latin-America; but it is a view which has emerged quite definitely from such observations and conversations as have been possible to me.

Other reasons may exist for the postponement of the Conference; but its postponement out of apprehension as to a resolution of pro-Fascist import would really appear to be unnecessary and might be construed as an indication of weakness by the agents or proponents of non-democratic regimes.

Respectfully,

WESLEY FROST

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<sup>2</sup> *On the Need for a Spirit of Tolerance in Inter-American Relationships*: Address delivered by the Honorable Sumner Welles, Under Secretary of State, before the Inter-American Center of George Washington University, Washington, December 6, 1937 (Washington, Government Printing Office, 1937).

710.H Agenda/33

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] March 4, 1938.

The Argentine Ambassador <sup>3</sup> called to see me this morning.

The Ambassador gave me to read a telegram which he had just received from his Foreign Office conveying a message from Dr. Cantilo,<sup>4</sup> the new Argentine Foreign Minister, who is still in Rome. Dr. Cantilo has raised the question whether in view of the difficult situation Argentina found herself in at the Buenos Aires Conference because of the activities of Dr. Saavedra Lamas,<sup>5</sup> because of the disturbed world situation and because of the fact that certain American nations were going to bring up at the Lima Conference such highly controversial subjects as the proposed Inter-American Court, it would not be preferable to have the Lima Conference postponed for at least one or two years. He requested that the views of this Government be obtained with regard to his suggestion.

Before I had an opportunity of replying the Ambassador said that of course he knew that the Conference could not be postponed not only because of the fact that the great majority of the American nations wanted the Conference held next December but also because the Government of Peru was particularly anxious to have it held for domestic as well as for inter-American reasons. I said to the Ambassador that my own view and that of this Government coincided with that which he had himself expressed. I did not see that there was any valid ground for postponement and that it seemed to me a very healthy thing to have the Conference held when the world situation was disturbed. I felt that the closer the contacts and relations between the several American governments might be at the present time the better for the whole hemisphere.

The Ambassador asked if this Government intended to propose any far-reaching or fundamental projects at the Conference. I said that up to the present time no such intentions had been determined upon by this Government and that while, of course, I could make no commitment in view of the long time still to elapse before the Conference assembled, it would seem to me probable that the matters in which this Government was particularly interested and which it would desire to take up at the Conference were predominantly questions of a technical and scientific character rather than of a political nature.

S[UMNER] W[ELLES]

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<sup>3</sup> Felipe A. Espil.

<sup>4</sup> José María Cantilo.

<sup>5</sup> Carlos Saavedra Lamas, ex-Argentine Minister for Foreign Affairs; ex-President of the Chaco Peace Conference; see pp. 89 ff.

710.H/42 : Telegram

*The Minister in Uruguay (Dawson) to the Secretary of State*

MONTEVIDEO, March 11, 1938—6 p. m.  
[Received March 11—5 p. m.]

24. I am informed unofficially by an official of the Uruguayan Foreign Office that Argentina has suggested to Uruguay the desirability of postponing until next year the Lima Conference, that no reply has as yet been given and that before replying, the Foreign Office would be glad to know the attitude of our Government. While the information has been conveyed to me unofficially it has been made plain that the Minister of Foreign Affairs would like to be informed through me of the Department's attitude. My impression is that the Uruguayan Government holds no decided views in the matter but wishes to avoid giving offense to either Argentina or Peru and rather feels that a decision can best be reached in Washington.

DAWSON

710.H/43 : Telegram

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

RIO DE JANEIRO, March 12, 1938—11 a. m.  
[Received 11 : 30 a. m.]

50. Pimentel Brandao<sup>6</sup> informed me last night that Cantilo has advanced the idea of a joint Argentine-Brazilian representation for the postponement of the Pan-American Conference at Lima on the grounds that it follows too closely after the Buenos Aires Peace Conference,<sup>7</sup> et cetera. Brandao replied that Brazil did not desire to take any initiative in this matter.

CAFFERY

710.H/44 : Telegram

*The Secretary of State to the Minister in Uruguay (Dawson)*

WASHINGTON, March 12, 1938—1 p. m.

10. From the Under Secretary. Your 24, March 11, 6 p. m. By instruction from his new Foreign Minister, the Argentine Ambassador

<sup>6</sup> Mario de Pimentel Brandão, the appointed Brazilian Ambassador to the United States, presented his credentials on April 29.

<sup>7</sup> Inter-American Conference for the Maintenance of Peace, held at Buenos Aires, December 1-23, 1936. For correspondence pertaining to the Conference, see *Foreign Relations*, 1936, vol. v, pp. 3 ff.

here made an informal and confidential inquiry of this Government as to what the attitude of the United States would be in the event that the Argentine Government suggested the postponement of the Lima Conference. The cause of the inquiry appeared to be Dr. Cantilo's concern lest the projects for an Association of American Nations and for the creation of an Inter-American Court might give rise to serious conflict of opinions at the Conference next December.

I informed the Argentine Ambassador in reply that the general attitude of this Government in the matter was that it would be glad to abide by the wishes of the other American nations but that from the information which I had obtained it would certainly seem that many of the American Governments were anxious to have the Conference held next December and that the Peruvian Government, particularly because of domestic considerations, would object to any postponement of the Conference. The Ambassador also said that Dr. Cantilo felt that in view of the general world situation the holding of an inter-American Conference next autumn might be unwise. To this I replied that it seemed to this Government that at a time of world unrest it was all the more important for the American nations to maintain a close and continuing contact with one another.

The Ambassador gave me as his own personal opinion the impression that the Argentine Government itself was not interested in securing a postponement of the Conference and that the initiative in this regard had come solely from Dr. Cantilo.

In any reply you make to the Uruguayan Foreign Office you may repeat in general terms the views which I expressed to the Argentine Ambassador.

HULL

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710.H/47: Telegram

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

WASHINGTON, March 14, 1938—3 p. m.

36. From the Under Secretary. Your 50, March 12, 11 a. m. [Here follows text of first three paragraphs of telegram No. 10, March 12, 1 p. m., to the Minister in Uruguay, printed *supra*.]

In any reply you make to the Brazilian Foreign Office you may repeat in general terms the views which I expressed to the Argentine Ambassador.

HULL

710.H/48 : Telegram

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

RIO DE JANEIRO, March 18, 1938—3 p. m.

[Received March 18—1 : 50 p. m.]

59. For the Under Secretary. Your telegram 36, March 14, 3 p. m. Aranha<sup>8</sup> told me today that he agreed entirely with your attitude about the Lima Conference.

CAFFERY

710.H/54

*Memorandum of a Telephone Conversation, by the Chief of the Division of the American Republics (Duggan)*

[WASHINGTON,] March 30, 1938.

Dr. Fombona<sup>9</sup> stated that he had received instructions from his Government to inform this Government of his Government's belief that the next Inter-American Conference scheduled to be held in Lima on December 9, 1938, should not be postponed.

I thanked Dr. Fombona for giving me this information, which I said would be conveyed at once to Mr. Welles and the Secretary.

L[AURENCE] D[UGGAN]

710.H/80

*The Ambassador in Argentina (Weddell) to the Secretary of State*

No. 2065

BUENOS AIRES, June 13, 1938.

[Received June 21.]

SIR: I have the honor to inform the Department that today in a conversation with the Minister for Foreign Affairs the proposed International Conference of American States at Lima was mentioned. In this connection the Minister told me that while he considered the moment not altogether propitious in view of the continental situation,—referring specifically to the Chaco conflict<sup>10</sup> and political unrest in Brazil, he thought it appropriate that the Conference be held. He added that it was something that the Peruvian Government very much desired and said that the effect of such a reunion would be to strengthen the hands of that Government.

The Minister then referred to the Chaco War which he said was a most complex and difficult question and said that the Bolivian and

<sup>8</sup> Oswaldo Aranha, Brazilian Minister for Foreign Affairs.

<sup>9</sup> Jacinto Fombona-Pachano, Counselor of the Venezuelan Embassy.

<sup>10</sup> See pp. 89 ff.



Paraguayan Governments had each informed him that if the present negotiations fell through, they would not be represented at Lima.

In this connection I have the honor to enclose, as of interest to the Department, an editorial on the proposed Conference which appeared in *La Prensa* of June 10.<sup>11</sup> This is not the first occasion on which this newspaper has expressed its lack of enthusiasm for the Conference. Its attitude, however, does not at present reflect that of the press as a whole.

Respectfully yours,

ALEXANDER W. WEDDELL

710.H/84

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

No. 107

SANTIAGO, June 17, 1938.

[Received July 2.]

SIR: I have the honor to inform the Department that in a recent conversation with the Minister for Foreign Affairs, Sr. Gutierrez Allende, shortly after his return from his visit to Brazil and the Argentine, the question of the article in *La Prensa* of Buenos Aires, suggesting a postponement of the Conference at Lima was mentioned.

I said to the Minister that I took it for granted that the Government here did not share this opinion and was in favor of holding the Conference as scheduled. The Minister agreed, adding that any change in the date was, in the opinion of the Chilean Government, a matter for Peru to decide and that if the Peruvian Government wished to continue with the Conference as planned, Chile would of course agree. Personally he felt that conditions were not very propitious and that if the dispute between Peru and Ecuador<sup>12</sup> had not been settled by that time, or had become aggravated, it might well affect the success of the Conference. However, he repeated, that was for Peru to decide.

Later, in talking with Don Germán Vergara, the Under Secretary for Foreign Affairs, who had also just returned, having accompanied the Minister on his visits to Brazil and the Argentine, Sr. Vergara confirmed what the Minister had said with regard to Chile's attendance at the Lima Conference. He added, however, that for Chile particularly the date set for the opening—December 9th—was a most inconvenient one in that the change of Government there would take place with the inauguration of the new President on December 23rd. This, he said, would mean that some arrangement would have to be reached between the incoming and outgoing Governments on the

<sup>11</sup> Not reprinted.

<sup>12</sup> See pp. 217 ff.

attitude to be taken by the Chilean delegation on the various questions set forth in the agenda. It would also mean that the delegates would have to receive new powers and possibly fresh instructions from the incoming Government once it had taken over.

Sr. Vergara felt, however, that this could be arranged without too much difficulty, particularly if the Conservative candidate were elected, as he thought he would be, in which case presumably the policies of the present Government, especially with regard to foreign affairs, would be continued.

Sr. Vergara also referred to the dispute between Peru and Ecuador in connection with the forthcoming Conference, but said that he personally did not feel concerned in this connection. Peru certainly for internal reasons would not wish to engage in any external conflict now. Also the Peruvian Government was most anxious that the forthcoming Conference at Lima should be a success, and for this reason if for no other, he felt, would go the limit in making possible a peaceful solution of the dispute with Ecuador.

Both the Foreign Minister and the Under Secretary told me that they felt that the visits to Brazil and the Argentine had been a great success, and that the relations between the three countries now left nothing to be desired. The Minister himself told me that I could inform my Government that the calm of the Conference would not be disturbed by any disputes between Chile, Brazil and the Argentine, as these three countries now understood each other perfectly.

Respectfully yours,

NORMAN ARMOUR

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710.H/88

*The Peruvian Minister for Foreign Affairs (Concha) to the Secretary of State*

[Translation]

No. 6/12

LIMA, August 2, 1938.

[Received August 11.]

MR. SECRETARY OF STATE: The city of Lima having been designated in December 1933 as the seat of the VIII International Conference of American States, and the program of its sessions having been approved on June first of this year, I have the honor to invite Your Excellency's Government to have representation in the event which will be inaugurated in this capital on December 9th next.

The grave problems which are today agitating the world and compromising its security, certainly require that the nations of America, united by a common ideal, strengthen their traditional ties, and endeavor to create new bonds of solidarity which should serve to protect

them from the danger of war among themselves and to guard them from any threat of propagation on their soil of extracontinental disputes.

To this end the Buenos Aires Inter-American Conference for the Maintenance of Peace promulgated principles and norms of international policy which the public law of the states is progressively incorporating in the body of its legislation and which tend to give a unique and effective structure to the relations between the countries of this hemisphere.

The vigorous rhythm of our American life, however, growing ever more intense and richer in content, requires that the progress made in the sense of organization of peace be affirmed by the creation of new instruments of general utility, and that those old ideals which express our unshakable adherence to the postulates of justice be renewed.

It is for this reason that the agenda of the VIII International Conference of American States should contemplate, together with the necessity of guaranteeing the maintenance of a peaceful continental neighborly life, the study of highly important questions of a political, juridical and economic character which the present hour poses in urgent terms, perhaps in terms of anguish. The mere enumeration of the topics which are to be discussed at Lima and which are already within Your Excellency's purview, would suffice to give importance to the December assembly, [even]<sup>18</sup> if its real and highest significance were not to be sought in the very fact of the meeting of authentic outstanding personages from the whole continent, assembled to orientate, on the occasion of this new fraternal summons, their aspirations of cordial understanding.

We have also a lofty duty to fulfill toward all the men and all the peoples who live beyond our common frontiers. Representing a continent which views the future free from perturbing hatreds and antagonisms and apart from any spirit of harmful emulation, to display it in the plenitude of its moral unity is to offer to others a stimulus of suggestive idealism. When the American idea of an international society based on respect for independent and equal sovereignties and devoted to noble impulses of fraternity reaches all souls, we shall have reason to hope for better days for humanity.

It would be useless to undertake to emphasize to Your Excellency's enlightened judgment how important it is for the Government of the United States of America to be duly represented at the Lima Conference. Peru knows how valuable the contribution which the plenipotentiaries of your friendly nation will make to the spirit of America is bound to be, and promises Your Excellency, through me, its sincerest and firmest collaboration, feeling certain that if the Peruvian

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<sup>18</sup> Brackets appear in the file translation.

Government cannot add anything to the lustre of the assembly, it will, in return be able, fully relying on the high endowments of its distinguished guests, to reflect the purity of its American sentiments and the sincerity of its eagerness to repay the signal honor it receives, by entertaining its eminent guests in an atmosphere of genuine and cordial hospitality.

I present to you, Mr. Secretary of State, the assurances of my very high and distinguished consideration.

CARLOS CONCHA

710.H/94

*The Secretary of State to the Chargé in Peru (Dreyfus)*

No. 163

WASHINGTON, September 2, 1938.

SIR: Reference is made to the Embassy's despatch no. 575 dated August 6, 1938,<sup>14</sup> transmitting a copy of the invitation dated August 2, 1938, from the Peruvian Government to the United States to participate in the Eighth International Conference of American States at Lima on December 9, 1938. There is enclosed a reply accepting the invitation on behalf of this Government, which you are requested to deliver at an early opportunity to the Minister of Foreign Affairs. You may wish to emphasize to Dr. Concha the importance which this Government and I personally attach to the forthcoming conference and reiterate the willingness and earnest desire of this Government to collaborate whole-heartedly with the Minister of Foreign Affairs and the Peruvian Government in making the conference a success.

It would seem desirable that the invitation, as well as the acceptance, be given publicity, and an inquiry has been made to a member of the Peruvian Embassy as to the possibility of making the two notes available to the press simultaneously in Lima and Washington. The Department has not yet received a reply to this inquiry and you might wish to mention the matter to Dr. Concha.

Very truly yours,

CORDELL HULL

[Enclosure <sup>15</sup>]

*The Secretary of State to the Peruvian Minister for Foreign Affairs  
(Concha)*

WASHINGTON, September 2, 1938.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's courteous communication of August 2, 1938 by which

<sup>14</sup> Not printed.

<sup>15</sup> Filed separately under 710.H/95.

you so kindly extended on behalf of the Government of Peru an invitation to the Government of the United States to participate in the Eighth International Conference of American States which will be held in Lima on December 9, 1938. I hasten to accept on behalf of my Government Your Excellency's kind invitation, and I can assure you that it will afford my Government the greatest satisfaction and pleasure to participate at this important conference. I shall be glad to communicate to you at a later date the names of the representatives of my Government.

As Your Excellency so clearly points out, the grave problems confronting the world today afford the American Republics, united by a common ideal, an opportunity to set an example to the world through the creation of new bonds of solidarity and friendship. My Government is confident that the Lima Conference will carry one step further the American ideal of an international society devoted to the spirit of fraternity and cordial understanding.

The American nations have collaborated at inter-American conferences for many years with a view to the mutual improvement of their respective political, commercial, social, and cultural life. The American nations have made an important contribution to the cause of world peace by the elaboration of an inter-American society based upon respect for the independence, sovereignty, and political equality of nations.

Events in other parts of the world have emphasized recently the extent to which some nations have wavered from the orderly and friendly relations which should prevail between neighbors. The nations of the world are faced with the issue of determining whether relations shall be characterized by international anarchy and lawlessness or by the principles of fair play, justice and order under law. No nation and no government can avoid the issue; neither can any nation avoid participation, willing or not, in the responsibility of determining which course of action shall prevail.

The peoples of the American Republics have inherited the high hopes of their liberating fathers. The American peoples still have an abiding faith in the Americas and there is an imperative need to maintain unimpaired the American system. This cannot be done by any one nation but only through cooperation and friendly collaboration of all the American Republics. It is therefore with a sense of real pride that the representatives of the American Republics will meet as guests of Your Excellency's Government for the sole purpose of advancing the cause of an orderly international life based upon principles of morality and justice and in accordance with the well-established precepts of international law.

My Government welcomes the opportunity to join with the other American Republics in the capital city of your great country for the purpose of collaborating for the common good, the strengthening of traditional ties, and the elaboration of measures for their mutual benefit. The Program for the forthcoming Conference offers abundant opportunity for the American nations to consider further means of guaranteeing peaceful continental neighborly life, and of solving the many existing important questions of a political, juridical, and economic character. You may be assured that the Government of the United States will collaborate to the fullest extent with your Government and the governments of the other republics at the forthcoming Conference.

Accept [etc.]

CORDELL HULL

(b) Agenda<sup>16</sup>

710.H Agenda/27

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

No. 216

CIUDAD TRUJILLO, February 23, 1938.  
[Received February 28.]

SIR: I have the honor to inform the Department that the Dominican Republic and Colombia will jointly on March 1 deposit with the Pan American Union at Washington a draft proposal for consideration at the forthcoming Lima Conference of a proposed League of American Nations.

The placing of this item on the agenda of the Lima Conference does not, however, so far as Dominican Republic is concerned, indicate any burning zeal to see a Pan American league of nations instantly realized. It would appear that the Dominican Republic is redeeming its promise made at the Buenos Aires Peace Conference in December, 1936, whereby it agreed to support the project of Sr. Soto del Corral<sup>17</sup> for a Pan American League; but it is clearly realized in governmental circles here that the realization of such an international organization is not for the immediate future.

The Dominican Foreign Secretary, Mr. Ortega Frier, told me this morning that the idea of a Pan American League of Nations was more an aspiration, an ideal than a concrete program for adoption at the Lima Conference. He said the proposal needed to be worked out and

<sup>16</sup> For texts of projects laid before the Conference, see *Diario de Sesiones de la Octava Conferencia Internacional Americana* (Lima, 1939).

<sup>17</sup> Jorge Soto del Corral, Chairman of the Colombian delegation to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, December 1-23, 1936.

that if such a plan were eventually placed into effect it would be the outcome of a generation of development, motivated largely by the necessity of small nations seeking strength through union.

Respectfully yours,

R. HENRY NORWEB

710.H Agenda/30 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, March 7, 1938—11 a. m.

[Received 1:45 p. m.]

33. The Minister for Foreign Affairs tells me that he believes the Dominican Government seriously intends to press for the formation of a Pan-American League of Nations. Corroborating this, Leger<sup>18</sup> says that the present able Dominican representative here, Jimenez, is being sent to Peru as Dominican Minister there in order to prepare the ground to the above end for the forthcoming Conference of American States at Lima. Incidentally Leger understands that one of the two des Pradels is to come here.

With all this in mind Leger inquired regarding the Department's attitude toward the formation of a Pan-American League of Nations, saying he would like to know this before being sounded out on this score by the Dominican Government which he felt would be soon.

At my solicitation Leger said that personally he felt the disadvantages of a Pan American League of Nations would far outweigh any possible benefits; that the present system comprising the Pan-American Union, the various inter-American treaties and the occasional conferences formed a satisfactory structure for inter-American activities the efficacy of which had been most happily demonstrated recently in the settlement of the Haitian-Dominican dispute.<sup>19</sup> Leger feared that any attempt further to crystalize and embody this system in a written document by the establishment of a League of Nations might easily engender the disadvantages which had been so unfortunately demonstrated in the League of Nations and which the present elastic inter-American system largely avoids.

I should much appreciate as early a reply as possible since my guess is that the Dominican Government has already approached Leger but that he desires to defer his reply until learning our attitude.

Repeated to Ciudad Trujillo.

MAYER

<sup>18</sup> Georges Leger, Haitian Minister for Foreign Affairs.

<sup>19</sup> See pp. 178 ff.

710.H Agenda/35 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, March 7, 1938—8 p. m.

21. From the Under Secretary. Your 33, March 7, 11 a. m. The Department has not as yet had an opportunity to study attentively the project for an Association of American Nations supported by the Colombian and Dominican Governments. A copy of this project<sup>20</sup> was only left with me late last week by the Colombian Minister.

For the moment I think you had better limit yourself in replying Leger to saying that the Department has not as yet had an opportunity of studying the project above referred to nor of familiarizing itself with any other similar projects that other American governments may intend to present for consideration at the Lima Conference. You may add that in principle this Government is inclined to believe that the existing inter-American treaties and specifically the conventions and resolutions adopted at the Buenos Aires Conference for the Maintenance of Peace<sup>21</sup> form a satisfactory foundation for inter-American relationships and that these various agreements might best be modified or supplemented as experience demonstrates such amendment or supplementation to be desirable. So far as can be ascertained at this date, so many months prior to the holding of the Conference, certain of the larger American republics, notably Argentina and Brazil, are very much opposed to any form of association such as that proposed by the Dominican Government.

HULL

710.H Agenda/37

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

No. 236

CIUDAD TRUJILLO, March 9, 1938.

[Received March 14.]

SIR: Reference is made to my despatch No. 216 of February 23, 1938, concerning the League of American Nations proposed by the Dominican Republic and Colombia.

I have now the honor to report that the Minister for Foreign Affairs today indicated that his Government was endeavoring to enlist the

<sup>20</sup> *Proyecto de Tratado sobre la creación de una Asociación de Naciones Americanas, y exposición de motivos* (Bogotá, Imprenta Nacional, 1938). See also *Diario de Sesiones*, p. 202.

<sup>21</sup> See *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936* (Washington, Government Printing Office, 1937), pp. 209 ff.



support of as many Latin American countries as possible for the project and that three countries which he did not name but referred to as "a Central American nucleus," had already responded favorably.

The Minister wanted me to understand that the proposed League of American Nations was merely the germ of a broader idea of his Government—namely some sort of a declaration of policy which he hoped would be brought up at the forthcoming Pan American Conference supported by the Dominican Republic, Colombia and other interested countries.

The Minister defined such a declaration as a medium through which the Latin American nations, particularly the smaller countries, could reciprocate our Good Neighbor Policy with a Pan American expression of solidarity behind the leadership and protection of the United States in connection with Europe and world politics and more specifically in connection with the problem of combating the infiltration of unwanted foreign influences in this hemisphere. The Minister dwelt at some length on this idea and the need for smaller nations such as the Dominican Republic to benefit from our liberal attitude by following our lead in such matters.

Argentina, the Minister commented, might not be entirely favorable to such a policy but sooner or later would have to realize the preponderance of power of the United States. The Minister believed that Argentina's foreign policy under Dr. Cantilo, the new Foreign Minister, would be more liberal and less chauvinistic than under his predecessor, Dr. Saavedra Lamas.

The obvious intention of the Dominican Minister to have his country play a role in formulating Pan American ideals leads me to believe that his enthusiasm may possibly be coupled with a desire on the part of President Trujillo to recover any prestige abroad which he feels he may have lost as a result of the Haitian incident.

Respectfully yours,

R. HENRY NORWEB

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710. League of Nations/88a

*The Under Secretary of State (Welles) to the Colombian Minister (López)*<sup>22</sup>

WASHINGTON, March 23, 1938.

MY DEAR MR. MINISTER: I wish to express again my deep appreciation for your courtesy in furnishing my Government a copy of the Draft Treaty Relative to an Association of American Nations which Your Excellency's Government has formulated in collaboration with

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<sup>22</sup> This paper bears the notation: "Signed by Mr. Welles in view of fact that inquiry was addressed to him. Secretary read and approved letter."

the Government of the Dominican Republic and which has been presented to the Pan American Union in accordance with the resolution adopted at the Buenos Aires conference in 1936.<sup>24</sup> I feel that the two Governments which have collaborated in the drafting of this proposal merit the sincere admiration and thanks of the other American governments for the conscientious and painstaking labor which they have so obviously devoted to this task.

My Government is heartily in favor of taking all practical steps in the maintenance of peace in the western hemisphere. With this broad objective there can be no disagreement. The American nations have made substantial progress in perfecting a plan for the maintenance of peace, and the inter-American treaties which now exist between the American republics, many of which were signed in Buenos Aires in 1936, constitute a solid and satisfactory foundation for a desirable inter-American relationship. Upon this foundation such further agreements or amendments of existing agreements may be erected as experience, necessity and the desire of all the American republics may indicate as wise and necessary.

It is in the light of the foregoing considerations that the draft treaty now under consideration has been given the most careful study. It has become apparent from this study that the kind of inter-American relationship provided for in this draft is of much broader scope, both practically and juridically, than the existing treaties and peace machinery. It is the belief of my Government that a proposal so completely new in inter-American relations should receive over a protracted period the most thoroughgoing scrutiny on the part of the American governments. It would be essential to determine whether the proposal could be reconciled and coordinated with the constitutional and statutory laws of the respective nations, and the extent to which it might conflict with existing peace treaties in effect between various countries. A thorough study of this nature on the part of all the American governments would appear to be necessary before the wisdom or unwisdom of the essential character of the proposal could be determined and before these governments could properly be expected to make decisions of so far-reaching a character. Such a study on the part of the American governments would, I believe, require far more time than that which remains before the Lima conference assembles.

So far as the Government of the United States is concerned, I feel it only proper to point out that because of the conflict between many of the provisions of this project and existing United States policy

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<sup>24</sup> Resolution X, Creation of a League of American Nations, *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace*, p. 214.

and legislation it would not be possible for this Government to become a party to such a treaty as that proposed in its present form.

I am, my dear Señor López,

Very sincerely yours,

SUMNER WELLES

710.H Agenda/42

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

No. 255

CIUDAD TRUJILLO, March 24, 1938.

[Received March 28.]

SIR: I have the honor to refer to my despatch no. 236 of March 9, 1938, recounting the comment of the Dominican Foreign Secretary<sup>25</sup> in respect of the Dominican-Colombian proposal for a Pan American League of Nations.

The Legation has received a *note verbale* from the Foreign Secretary dated March 16 transmitting the text of the draft treaty for the creation of an Association of American Nations with the comment that "the creation of the Association of American Nations does not collide with the organization at Geneva but, on the contrary, tends to collaborate with it for the maintenance of peace in the American continent."

I enclose a translation of this *note verbale* and its accompaniment in the Spanish text.<sup>26</sup>

In recent weeks, particularly since the breakdown of the original League of Nations as a political force has become more publicized by events in Europe,<sup>27</sup> I have found Mr. Ortega Frier anticipating the argument which will undoubtedly be voiced at Lima; that if the Geneva League of Nations was a failure an American League would suffer from like impotence. He counters this argument by analogy with the insistence that the fundamental conditions which will bring an American League of Nations into being are not the same as those which gave rise to the Covenant incorporated in the Treaty of Versailles.<sup>28</sup>

It is Mr. Ortega's thought that his American League of Nations will be given cohesive force and, consequently, political power, by the joint interest of all the American States in preserving their system of government and their American heritage against inimical outside influences seeking a foothold in the New World. Where the various

<sup>25</sup> Ortega Frier.

<sup>26</sup> Neither printed.

<sup>27</sup> See vol. I, pp. 1 ff.

<sup>28</sup> *Foreign Relations*, The Paris Peace Conference, 1919, vol. XIII, p. 69.

American peace pacts have already given the American nations inter-continental security, he would add the League force to assure extra-continental security.

Respectfully yours,

R. HENRY NORWEB

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710. League of Nations/95

*Memorandum by Mr. Warren Kelchner, of the Division of the American Republics, to the Under Secretary of State (Welles)*

[WASHINGTON,] March 30, 1938.

For Mr. Welles: The draft treaty on the creation of an Association of American Nations is the same as was presented to you previously by the Colombian Minister. This document also contains "Exposición de Motivos". Copies which were given to our Chargé d'Affaires in Bogotá by the Colombian Foreign Office have now arrived in the Department with despatch no. 2098 of March 16.<sup>29</sup>

A study of the arguments has not revealed anything which would call for a modification in any way of the recent letter to the Minister of Colombia on this matter.<sup>30</sup>

The "Motivos" deal at great length with the League of Nations. They point out that there is no antagonism between the Geneva organization and the proposed American Association but that there is an intimate relation between the decline of the importance of the League and the necessity of considering the creation of an American organization. It refers to the loss of prestige of the Geneva League, the withdrawal of several American republics, the failure of the League to take effective action in recent years and the passive participation in the League by the American members.

It is pointed out that the proposed Association "is the means of saving what is most precious in it (League), maintaining this law in effect in a continent where it will have full application because of the characteristics of the member countries." It points out that the American organization "incorporated into the League through the amendment of Article 21 and taking the place of the Monroe Doctrine, might be the transitory depository of law accepted by the signatories of the Pact until humanity with greater loyalty and confidence comes closer to international solidarity and the League of Nations."

The "Motivos" state that withdrawal of the other American republics from the League would be a serious blow and that the only way to avoid this would be to create an American political organization affiliated with the League.

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<sup>29</sup> Not printed.

<sup>30</sup> Letter from the Under Secretary of State, March 23, p. 15.

The "Motivos" make it clearer than even the text of the draft treaty that the real purpose is to establish an American organization which will be a part and parcel of the Geneva League of Nations.

KELCHNER

710.H Agenda/44

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

No. 515

RIO DE JANEIRO, April 15, 1938.

[Received April 21.]

SIR: Referring to recent reports regarding the meeting held on April 11th at the Itamaraty,<sup>31</sup> I have the honor to report that the Brazilian Minister for Foreign Affairs, during the April 11th meeting made several observations of interest with regard to the agenda of the Lima Conference. He said that he would like to make it clear that Brazil is opposed to any sort of an Inter-American Court of Arbitration. He said also that Brazil does not see the need for the formation of an Inter-American League of Nations. He spoke also on the question of armaments and intimated that he believes that armament discussion should center around a declaration of principle rather than an attempt to effect actual reduction in armaments under existing world conditions.

Respectfully yours,

JEFFERSON CAFFERY

710.H Agenda/45

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

No. 738

HABANA, May 4, 1938.

[Received May 9.]

SIR: I have the honor to report that, in a conversation today with a member of the Embassy staff, Dr. Campa, the Cuban Undersecretary of State, brought up the question of the proposal of the Governments of Colombia and of the Dominican Republic for an American Association of Nations, which is on the agenda of the next Pan American Conference. Dr. Campa said that this matter is now being studied by the competent Cuban authorities, with a view to formulating the position which Cuba will take at the Conference. He said that his Government would be favorable to the proposal, but would make two reservations: (1) That the proposed organization should be completely dissociated from the League of Nations, and (2) that the Pan American Union should be its secretariat.

<sup>31</sup> Brazilian Foreign Office.

Incidentally, Dr. Campa said that he, personally, considers the League of Nations a complete failure, and that he would like to see Cuba resign from it. He indicated, however, that his opinion that Cuba should resign is not shared by his superiors.

Respectfully yours,

For the Ambassador:  
EDWARD P. LAWTON  
*Second Secretary of Embassy*

710.H Agenda/47

*The Secretary of State to the Director General of the Pan American Union (Rowe)*

WASHINGTON, May 13, 1938.

MY DEAR MR. ROWE: With reference to the Project of Program for the Eighth International Conference of American States which was transmitted to the Governments of the American Republics in accordance with the resolution adopted by the Governing Board on March 9, 1938,<sup>22</sup> I wish to inform you that the Government of the United States has no observations nor suggestions to present regarding that Project of Program. While this Government will be glad to participate in the conference on the basis of whatever agenda meets with the approval of all the Governments of the American Republics, such acquiescence will, of course, not be interpreted as implying that the Government of the United States will find itself in a position to support at the conference each project and topic now listed in the Project of Program.

Sincerely yours,

For the Secretary of State:  
SUMNER WELLES  
*Under Secretary*

710.H Agenda/67

*The Mexican Ambassador (Castillo Nájera) to the Secretary of State*

[Translation]<sup>23</sup>

WASHINGTON, July 19, 1938.

MR. SECRETARY: I have received instructions from my Government to bring to the knowledge of Your Excellency a Project of Convention relative to the Prohibition of Aerial Bombardment, which Mexico proposes to submit for the consideration of the American Governments

<sup>22</sup> Submitted to the Secretary of State in a letter of March 11, 1938, from the Secretary of the Governing Board, Pan American Union; not printed.

<sup>23</sup> Translation supplied by the editors.

which may be represented at the Eighth International Conference of American States to be held at Lima, Peru, in December next.

Attached, I transmit to Your Excellency a ten-page copy of the Project, making known, at the same time, that the objectives which Mexico pursues in endeavoring to obtain your approval are purely humanitarian, since it is a question of attempting to avoid the suffering of defenseless women and children, safeguarding at the same time historic and scientific monuments, etc., and protecting Red Cross buildings.

I avail myself [etc.]

F. CASTILLO NÁJERA

[Enclosure—Translation] <sup>34</sup>

*Project of Convention Relative to the Prohibition of Aerial  
Bombardments*

EXPOSITION

In view of the deplorable events which have taken place during the present wars in Spain and China, where cities located beyond the zone of combat have been bombed from the air, resulting in innumerable and innocent victims among the civil population, the Mexican Delegation, motivated by humanitarian sentiments, has the honor to present to the Eighth International Conference of American States the project of convention which is inserted below. The object of the project is to avoid the suffering of defenseless women and children, and at the same time to protect historic, scientific, etc., monuments and the establishments of the Red Cross.

Only one declaration exists which contains provisions relative to aerial bombardments, and this instrument, because of its inherent limitations, can be considered to be ineffective, in view of the fact that in the period when it was adopted, that is, at The Hague Peace Conferences of 1899 and 1907,<sup>35</sup> aviation had not attained the development it has achieved today nor had it acquired its contemporary military importance.

In this connection, the following declaration was adopted at The Hague Conference of 1899:

“The contracting Powers agree to prohibit, for a term of five years, the launching of projectiles and explosives from balloons, or by other new methods of similar nature.”<sup>36</sup>

The Conference of 1907 adopted a similar declaration, which reads textually as follows:

<sup>34</sup> Official translation supplied by the Pan American Union (filed under 710.H-Agenda/70). See also *Diario de Sesiones*, p. 83, and index, p. xxvi.

<sup>35</sup> See *Foreign Relations*, 1899, pp. 511 ff., and *ibid.*, 1907, pt. 2, pp. 1099 ff.

<sup>36</sup> *Ibid.*, 1899, p. 531.

“The contracting Powers agree to prohibit, for a period extending to the close of the Third Peace Conference, the discharge of projectiles and explosives from balloons or by other new methods of a similar nature”.<sup>37</sup>

As indicated previously, these declarations, because of the generality of their terms, could be observed today only with difficulty. The modern war requires an extensive use of aviation for the purpose of destroying arms and munitions depots, factories for the manufacture of war implements, lines of communication, etc., which may be found at the front or behind the line of battle.

It should be desirable to adopt rules complementary of existing provisions relative to naval and land bombardments which while incorporating the humanitarian principle of the protection and safety of defenseless civilian populations would at the same time satisfy the actual necessities of war.

In relation to the subject of land bombardments, it should be observed that the following standards exist in the Annex to the Convention of The Hague respecting the laws and customs of war on land.

“Article 25.—The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited.”<sup>38</sup>

“Article 26.—The officer in command of an attacking force must, before commencing a bombardment, except in cases of assault, do all in his power to warn the authorities.”

“Article 27.—In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.—It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.”

In regard to bombardments by naval forces in time of war, the Convention on this subject signed at The Hague in 1907 stipulates in its relevant articles the following :

“CHAPTER I.—The Bombardment of Undefended Ports, Towns, Villages, Dwellings, or Buildings.—<sup>39</sup>

“Article 1.—The bombardment by naval forces of undefended ports, towns, villages, dwellings, or buildings is forbidden.—A place cannot be bombarded solely because automatic submarine contact mines are anchored off the harbor.

“Article 2.—Military works, military or naval establishments, depots of arms or war *matériel*, workshops or plant which could be uti-

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<sup>37</sup> *Foreign Relations*, 1907, pt. 2, p. 1246.

<sup>38</sup> *Ibid.*, p. 1212.

<sup>39</sup> *Ibid.*, p. 1226.



lized for the needs of the hostile fleet or army, and the ships of war in the harbor, are not, however, included in this prohibition. The commander of a naval force may destroy them with artillery, after a summons followed by a reasonable time of waiting, if all other means are impossible, and when the local authorities have not themselves destroyed them within the time fixed.—He incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances.—If for military reasons immediate action is necessary, and no delay can be allowed the enemy, it is understood that the prohibition to bombard the undefended town holds good, as in the case given in paragraph 1, and that the commander shall take all due measures in order that the town may suffer as little harm as possible.”

“Article 3.—After due notice has been given, the bombardment of undefended ports, towns, villages, dwellings, or buildings may be commenced, if the local authorities, after a formal summons has been made to them, decline to comply with requisitions for provisions or supplies necessary for the immediate use of the naval force before the place in question.—These requisitions shall be in proportion to the resources of the place. They shall only be demanded in the name of the commander of the said naval force, and they shall, as far as possible, be paid for in cash; if not, they shall be evidenced by receipts.”

“Article 4.—Undefended ports, towns, villages, dwellings, or buildings may not be bombarded on account of failure to pay money contributions.”

“CHAPTER II.—General Provisions.—Article 5.—In bombardments by naval forces all the necessary measures must be taken by the commander to spare as far as possible sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on the understanding that they are not used at the same time for military purposes.—It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large, stiff rectangular panels divided diagonally into two colored triangular portions, the upper portion black, the lower portion white.”

“Article 6.—If the military situation permits, the commander of the attacking naval force, before commencing the bombardment, must do his utmost to warn the authorities.”

In addition to the rules contained in the foregoing articles relative to the manner in which bombardments should be effected and regarding the protection of buildings, institutions and other establishments of a religious, scientific, etc., character, it should be noted that there also exist, in the Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments (Roerich Pact),<sup>40</sup> precise provisions for the protection of such buildings, institutions and establishments. In this connection the treaty provides:

“Article I.—The historic monuments, museums, scientific, artistic, educational and cultural institutions shall be considered as neutral

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<sup>40</sup> *Foreign Relations*, 1935, vol. iv, p. 219.

and as such respected and protected by belligerents.—The same respect and protection shall be due to the personnel of the institutions mentioned above.—The same respect and protection shall be accorded to the historic monuments, museums, scientific, artistic, educational and cultural institutions in time of peace as well as in war.”

“Article II.—The neutrality of, and protection and respect due to, the monuments and institutions mentioned in the preceding article, shall be recognized in the entire expanse of territories subject to the sovereignty of each of the signatory and acceding States, without any discrimination as to the State allegiance of said monuments and institutions. The respective Governments agree to adopt the measures of internal legislation necessary to insure said protection and respect.”

“Article III.—In order to identify the monuments and institutions mentioned in article I, use may be made of a distinctive flag (red circle with a triple red sphere in the circle on a white background) in accordance with the model attached to this treaty.”

“Article IV.—The signatory Governments and those who accede to this treaty, shall send to the Pan American Union, at the time of signature or accession, or at any time thereafter, a list of the monuments and institutions for which they desire the protection agreed to in this treaty.—The Pan American Union, when notifying the Governments of signatures or accessions, shall also send the list of monuments and institutions mentioned in this article, and shall inform the other Governments of any changes in said list.”

“Article V.—The monuments and institutions mentioned in article I shall cease to enjoy the privileges recognized in the present treaty in case they are made use of for military purposes.”

The Convention of Geneva on the amelioration of the condition of the wounded and sick in armies in the field, signed on July 27, 1929,<sup>4</sup> provides in the same manner that medical establishments and the personnel of the Red Cross shall be protected and respected under all circumstances. The respective articles of the convention provide as follows:

“CHAPTER II.—Medical Formations and Establishments.—Article 6.—Mobile medical formations, that is to say, those which are intended to accompany armies in the field, and the fixed establishments of the medical service shall be respected and protected by the belligerents.”

“Article 7.—The protection to which medical formations and establishments are entitled shall cease if they are made use of to commit acts harmful to the enemy.”

“CHAPTER III.—Personnel.—Article 9.—The personnel engaged exclusively in the collection, transport and treatment of the wounded and sick, and in the administration of medical formations and establishments, and chaplains attached to armies, shall be respected and protected under all circumstances. If they fall into the hands of the enemy they shall not be treated as prisoners of war.—Soldiers specially

<sup>4</sup> *Foreign Relations*, 1929, vol. I, p. 321.

trained to be employed, in case of necessity, as auxiliary nurses or stretcher-bearers for the collection, transport and treatment of the wounded and sick, and furnished with a proof of identity, shall enjoy the same treatment as the permanent medical personnel if they are taken prisoners while carrying out these functions."

"Article 10.—The personnel of Voluntary Aid Societies, duly recognised and authorised by their Government, who may be employed on the same duties as those of the personnel mentioned in the first paragraph of article 9, are placed on the same footing as the personnel contemplated in that paragraph, provided that the personnel of such societies are subject to military law and regulations.—Each High Contracting Party shall notify to the other, either in time of peace or at the commencement of or during the course of hostilities, but in every case before actually employing them, the names of the societies which it has authorised under its responsibility, to render assistance to the regular medical service of its armed forces."

The Delegation of Mexico has considered that with the provisions contained in the agreements mentioned above in view, a project of a treaty relative to aerial bombardments, complementary of the said agreements, could be drafted, and with this in mind it has the honor to present to the Eighth International Conference of American States the following:

#### PROJECT OF CONVENTION RELATIVE TO THE PROHIBITION OF AERIAL BOMBARDMENTS

The Governments represented in the Eighth International Conference of American States,

Wishing to avoid to the extent it may be possible that aerial bombardments cause innocent victims in the civil population;

Animated by the resolve to avoid the unnecessary destruction of historic monuments, museums, institutions dedicated to science, art, education and the preservation of the elements of culture;

Recognizing that it is equally indispensable to accord the most extensive protection to fixed medical establishments and to mobile medical formations which are intended to accompany armies in the field and to ameliorate the condition of the wounded and the sick;

Considering that the Declaration of The Hague of 1907 which prohibits the launching of projectiles and explosives from the air from balloons no longer fulfills the purposes it was designed to serve, both because of the exigencies of modern warfare and the technical progress attained in aviation;

Taking into account that until the present date only land and naval bombardments have been regulated, by means of the conventions signed at The Hague in 1907 relative to the Laws and Customs of War on Land and Concerning Bombardment by Naval Forces in Time of War;

Believing that it is desirable and that high humanitarian ends are thereby served that aerial bombardments be regulated, in a manner which would complement the stipulations of the above-mentioned conventions,

Have resolved to give conventional expression to these objectives through the conclusion of the following Convention, and to this effect have named the following Plenipotentiaries:

.....  
 .....  
 .....

Who, after having deposited their Full Powers, found to be in good and due form, have agreed as follows:

### Article I

The bombardment from the air of the following is positively prohibited:

- a*) Undefended cities, villages, dwellings and buildings, especially those which serve as the abode of the civil population;
- b*) Historic monuments, museums, institutions dedicated to science, art, education and to the preservation of the elements of culture;
- c*) Fixed medical establishments and mobile medical formations which are intended to accompany armies in the field and to improve the condition of the wounded and the sick, as well as the personnel engaged exclusively in the collection, transport and treatment of the wounded and the sick and in the administration of the said establishments and formations.

### Article 2

The institutions, monuments, buildings and the personnel referred to in article 1, sections *b*) and *c*), shall make use of the distinctive emblems expressly provided for in the Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments (Roerich Pact) and in the Geneva Convention for the Amelioration of the Condition of the Wounded and sick in Armies in the Field, of July 27, 1929.

### Article 3

Notwithstanding the provisions of article 1 of the present Convention, the bombardment from the air of the following military objectives shall be permitted, whether they are located at the front or at the rear of the line of battle:

- a*) Barracks and other buildings intended to be occupied by troops, as well as fortifications and entrenchments.
- b*) Factories, workshops and other industrial plant which could be utilized for the manufacture of arms, munitions, chemical products for use in war, and implements intended for destructive purposes.

- c) Depots of arms, munitions, chemical products for use in war, and implements intended for destructive purposes.
- d) Important strategic lines of communication and the rolling stock employed on such lines.

#### Article 4

The present Convention shall be ratified . . . . .

710.H Agenda/81

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] July 25, 1938.

The Minister of Colombia<sup>42</sup> called to see me this morning. I first of all expressed to the Minister my deep regret for the tragic accident in Bogotá yesterday and told him that we had already sent a message of sympathy to his Government.<sup>43</sup> The Minister said he had come in to tell me that he had received Saturday a telegram from his Government requesting him to return to Bogotá immediately for conferences with the Foreign Office and with the President-elect. I reminded the Minister that Dr. Santos had told me when he visited Washington that he trusted the Minister would continue as Minister to Washington after he himself assumed office as President and that I trusted this sudden trip did not mean that there was any change in this plan because the Minister was well aware of the tremendously high regard which all of us here in this Government had for him. The Minister replied that so far as he knew there had been no change but that he had been somewhat surprised not to have any word from Dr. Santos for a long time and that of course his position would be clarified as soon as he got to Bogotá.

The Minister said he had no doubt that Dr. Santos would wish to talk over with him the coming Lima conference and he consequently wondered if there was anything in that connection which I desired to say to him. I told the Minister that so far as our present plans were concerned this Government had no intention of proposing any projects of major importance other than those which dealt with technical questions and a possible project on the coordination of existing peace machinery as provided in Point 1 of the agenda for the conference. I said that in any event we would want to consult with the Colombian Government to get its point of view before any projects we might present were completed and that later on we would have informal

<sup>42</sup> Miguel López Pumarejo.

<sup>43</sup> On the occasion of a disastrous airplane accident. See Department of State, *Press Releases*, July 30, 1938, p. 68.

conversations with his Government on these subjects. I said that our position with regard to the Colombian-Dominican project for our American League of Nations had already been made clear to him and I reminded him that I had discussed this subject at considerable length with Dr. Santos when he was in Washington. I repeated to the Minister that our belief was that it was a wiser policy for all of the American nations to build up gradually on the solid foundations of treaties and conventions which had already been made, modifying them as experience and unanimous desire made necessary and that the American league of nations project seemed to us to be entirely separate from these foundations and to involve many highly controversial and dubious questions which the majority of the American republics would not be prepared to accept. I reminded him that as he knew that point of view had already been expressed to his Government by Argentina, Brazil, Chile, Peru and Uruguay and that it seemed to me that for a project of this kind to be successful it must receive the whole-hearted and enthusiastic support of all of the American republics. I concluded by saying that perhaps some time in the future some such association of the American nations might be desired by all of the American republics but that I thought it should come gradually and not artificially. I did not say to the Minister that this was exactly the point of view expressed to me by Dr. Santos who had likewise told me that when he assumed the presidency he would withdraw Colombia's support for this project since I doubted whether Dr. Santos had made this intention on his part known to the present President of Colombia.

I said that while this Government had no plans for the presentation of projects other than those I had mentioned it was evident that several very important questions might come up at the conference. I stated that the fundamental issues involved in the recent note from this Government to the Government of Mexico<sup>44</sup> were issues which might perhaps necessarily have to be discussed at the Lima Conference. I said to the Minister that in my judgment the note spoke for itself and presented these basic issues very clearly and that it was the hope of this Government that all of the other American Republics would uphold the principles enunciated therein. The Minister replied by saying that he had found the note an admirable document in every sense and that it seemed to him unquestionable that if inter-American confidence was to be a reality, if the American republics were to obtain the investment of foreign capital, within the limits of all necessary national safeguards, for the development of their natural resources, there must be an inter-American agreement upon the

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<sup>44</sup> Note to the Mexican Ambassador, July 21, 1938, p. 674.

principle that no government unilaterally could abrogate the universally recognized principles of international law and that one country must give the nationals of another country just and equitable treatment in accordance with the principles of international law. I said that I was very much gratified by what the Minister said and that knowing the stand which his brother and Dr. Santos had always taken with regard to the carrying out of the policy of equity and justice to the nationals of the other American republics within their borders, I hoped that the support on the part of the Colombian Government of the position taken by the United States in this matter would be forthcoming in such way as the Colombian Government deemed appropriate.

[Here follows discussion of other matters unrelated to the Conference.]

S[UMNER] W[ELLES]

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710.H Agenda/77 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, July 28, 1938—11 p. m.

[Received July 29—3:10 a. m.]

334. Foreign Office press release through DAPP states Mexico will present at Lima a proposal for an additional protocol to the Buenos Aires Convention of December 23, 1936 on good offices and mediation.<sup>45</sup> Proposal provides for mediation by powers or states.

In explaining proposal release states certain former pacts provided for mediation by powers but Buenos Aires pact provides for mediation by eminent citizens. It refers to 1937 mediation by states of Honduras-Nicaragua dispute<sup>46</sup> and asserts "success" of that mediation proves need for mediation by states, also saying further mediation effected under international law. Full report and text follow by mail.

The implication could be drawn that this is a move giving the assent of upholding the hand of the United States and legalizing its action in Honduras-Nicaragua dispute. It is possible that Mexico intends to reject arbitration of our agrarian claims<sup>47</sup> but seeks to appear a friend of mediation as a counter measure.

DANIELS

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<sup>45</sup> Treaty between the United States and other American Republics, signed at Buenos Aires December 23, 1936, Department of State Treaty Series No. 925, or 51 Stat. 90.

<sup>46</sup> See section entitled "Boundary Disputes: Honduras and Nicaragua," *Foreign Relations, 1937*, vol. v, pp. 56 ff.

<sup>47</sup> See pp. 657 ff.

710.H Agenda/99 : Telegram

*The Minister in Nicaragua (Nicholson) to the Secretary of State*

MANAGUA, September 6, 1938—11 a. m.  
[Received 1:30 p. m.]

88. The Minister for Foreign Affairs has requested me to obtain what information the Department may be willing to give regarding the attitude to be assumed by the American delegation to the Lima Conference on the proposition of an American League of Nations.

Could the Department furnish any information for communication to the Foreign Minister?

The President informed me yesterday that the Foreign Minister is to be a Nicaraguan delegate to the Conference. The information requested is evidently for consideration in connection with determining the Nicaraguan position.

NICHOLSON

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710.H Agenda/101 : Telegram

*The Secretary of State to the Minister in Nicaragua (Nicholson)*

WASHINGTON, September 8, 1938—6 p. m.

56. Your 88, September 6, 11 a. m. You may inform the Minister of Foreign Affairs confidentially that in principle this Government is inclined to believe that the existing inter-American treaties, and specifically the conventions and resolutions adopted at the Buenos Aires Conference for the Maintenance of Peace, form a satisfactory foundation for inter-American relationships and that these various agreements might best be modified or supplemented as experience demonstrates such amendment or implementation to be desirable.

The draft treaty proposed by Colombia and the Dominican Republic provides for completely new relationships both practically and juridically and it would seem to this Government essential that such a far-reaching change in inter-American organization should undergo a thorough study over a protracted period by all the governments to determine whether the project could be reconciled and coordinated with the constitutional and statutory laws of the respective nations as well as with the existing peace treaties now in effect.

Please make clear to the Minister of Foreign Affairs that this Government does not wish to attempt to influence the opinions of other governments but that inasmuch as he had shown us the courtesy of requesting our views we are glad to communicate to him confidentially our general attitude.

HULL



710.H/148

*The Ambassador in Argentina (Weddell) to the Secretary of State*

No. 2257

BUENOS AIRES, October 21, 1938.  
[Received October 29.]

SIR: I have the honor to report as follows:

On October 18 I called on the Minister for Foreign Affairs for the purpose of introducing to him Mr. S. Pinkney Tuck, Counselor of this Embassy, who will remain in charge during my absence on leave. In the course of a pleasant conversation I asked Dr. Cantilo whether he could furnish me with any pertinent information regarding the attitude to be adopted by his Government at the forthcoming Lima Conference. The Minister replied that his Government did not intend to advance any contentious views at Lima and that his present information led him to believe that Brazil would follow a similar course. He appeared to think that economic questions, rather than those of a political character, would chiefly occupy the time of the Conference. He said definitely, however, that Argentina would oppose the idea of an American League of Nations and that he felt very strongly that the Lima gathering should rigidly restrict itself to the terms of its agenda and that no new, or controversial, subjects should be introduced.

Dr. Cantilo then said that he had under consideration a project which he thought might be put forward with advantage during the Conference. He recalled that Article 2 of the Convention for the Maintenance, Preservation and Reestablishment of Peace, signed at Buenos Aires on December 23, 1936,<sup>48</sup> provides that in the event of war or a virtual state of war between American states, the Governments of the American republics represented at this Conference should undertake without delay the necessary mutual consultations. He felt strongly that this idea might be further developed to provide for consultation on questions other than those relating to a menace of war and covering such matters as economic questions, customs, frontier police, immigration, etc. He added that in such case, and in order to insure prompt consultation, the Governments interested might, if they so desired, delegate their diplomatic representatives to attend the meetings. He admitted that the whole idea had not clearly taken form in his mind as yet and that he was in the course of condensing his views on the subject, and he promised me a written exposé fully elaborating his views within a week.

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<sup>48</sup> *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace*, p. 116.

In this general connection I am enclosing, as of possible interest to the Department, an article, with translation,<sup>49</sup> entitled "New Problems of America—the Lima Conference," which appeared in *Noticias Gráficas* of October 5, an afternoon publication of limited circulation.

Respectfully yours,

ALEXANDER W. WEDDELL

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710.H/163

*The Ambassador in Argentina (Weddell) to the Secretary of State*

No. 2266

BUENOS AIRES, October 27, 1938.

[Received November 4.]

SIR: I have the honor to transmit the original text, and translation, of an exposé, prepared by the Ministry of Foreign Affairs, which embodies the views of the Argentine Government with respect to the forthcoming Conference at Lima.

In my despatch No. 2257 of October 21, 1938 I reported that Doctor Cantilo had promised me such an expression of views and had, at the same time, outlined a project which his delegation intended to support at the Conference, and which is in amplification of Article 2 of the Convention for the Maintenance, Preservation and Reestablishment of Peace signed at Buenos Aires in December, 1936. It will be seen that the Argentine Government considers that the system of mutual consultation agreed upon in Buenos Aires might be extended to apply not only to the case of war, or menace of war, but to specific cases of a different order. In my conversation with Doctor Cantilo he stated that such specific cases might, in his opinion, cover questions such as customs, frontier police, immigration, etc. He added that in order to insure prompt consultation, the Governments interested might, if they so desired, delegate their diplomatic representatives to attend the meetings whenever necessary.

The exposé further stresses the necessity for the Conference to abide strictly by the agenda and to avoid the unexpected inclusion of projects which might create divergencies or confusion among the delegations. The Argentine Government expresses itself as contrary to the Inter-American Court of Justice<sup>50</sup> and the League of American Nations;<sup>51</sup> and refers, in addition to the Briand-Kellogg Pact,<sup>52</sup> to certain specific treaties which might be taken into consideration with a view to perfecting and coordinating inter-American instruments

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<sup>49</sup> Not printed.

<sup>50</sup> See *Diario de Sesiones*, index, p. xxxi.

<sup>51</sup> See *ibid.*, p. 770.

<sup>52</sup> Treaty between the United States and other powers, signed at Paris, August 27, 1928, *Foreign Relations*, 1928, vol. I, p. 153.

of peace. Reference is also made to the peace code<sup>53</sup> to be submitted at the Lima Conference and to the unduly slow procedure of the proposed Commission of Conciliation<sup>54</sup> which, in the opinion of the Argentine Government, is a defect already attributable to the Gondra Pact.<sup>55</sup>

The Argentine Government will furthermore insist on its reservation in connection with Article 6 of the Convention to Coordinate, Extend and Assure the Fulfillment of the Existing Treaties Between the American States,<sup>56</sup> and furnishes its interpretation of this Article. It also favors postponing consideration of the definition of the aggressor. As to sanctions, the opinion is expressed that those of a moral or juridical character are more practicable, for as long as the application of material sanctions is not general it cannot be effective.

Other points in the exposé refer to the codification of international law, financial claims, women's political and civil rights and to the recognition of belligerency.

It is of some interest to note that in matters of immigration the Argentine Government will claim that no system of quotas should be established among American republics and that it is necessary to stress the right to regulate and select immigration in accordance with national requirements.

Respectfully yours,

ALEXANDER W. WEDDELL

[Enclosure—Translation]

*Memorandum Prepared by the Argentine Ministry for Foreign Affairs*

#### VIII PAN AMERICAN CONFERENCE AT LIMA

The Argentine Delegation to the VIII Pan American Conference at Lima has no purpose other than that of frankly cooperating in the study and settlement of matters which appear on the agenda and which concern all the countries represented. In this respect, the Argentine Government considers that the Conference, particularly at the present moment, should reflect the unity and solidarity of the American countries and therefore avoid all topics which might divide them.

<sup>53</sup> See *Diario de Sesiones*, index, p. xxvii.

<sup>54</sup> See, in this connection, "Proyecto Sobre Reuniones de los Ministros de Relaciones Exteriores," in *Diario de Sesiones*, p. 109.

<sup>55</sup> Treaty to Avoid or Prevent Conflicts between the American States, signed May 3, 1923, *Foreign Relations*, 1923, vol. I, p. 308. See also General Convention of Inter-American Conciliation, signed January 5, 1929, *ibid.*, 1929, vol. I, p. 653.

<sup>56</sup> Signed December 23, 1936; for text and reservation, see *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace*, pp. 131, 137.

In this respect, the Argentine Delegation will uphold the desirability of following strictly the pre-established agenda, in order to avoid the unexpected inclusion of projects which might create divergencies or confusion among the delegations.

There are two topics on this agenda which may give rise to differences and violent debates: the Inter-American Court of Justice and the League of American Nations. The Argentine Republic has already expressed, at the Conference for the Consolidation of Peace, its adverse opinion on these projects. It is also opposed to anything that may tend to confer political powers upon the Pan American Union or to create any political organization of a permanent character.

But the Argentine Government intends to help to bring about closer relations among the American nations and governments and, in this sense, it believes that the system of mutual consultation, agreed upon in Buenos Aires, might be extended and applied, not only in case of war or menace of war, but in special cases of a different kind when the common interests of the American countries should make it advisable.

The Argentine Delegation will define its ideas on this subject in a concrete project.

Without going into a detailed analysis of the agenda but rather as a general consideration of its principal headings, this Chancellery expresses as follows its opinion concerning other topics to be discussed.

With respect to the improvement and coordination of inter-American instruments of peace, it believes that it will be necessary also to take into account the Briand-Kellogg Pact<sup>57</sup> since it has been ratified by most of the American Republics, as well as the following: The Treaty to Avoid or Prevent Conflicts Between American Nations;<sup>58</sup> The General Convention of [Inter-]American Conciliation,<sup>59</sup> and Additional Protocol;<sup>60</sup> The General Treaty of Pan [Inter-]American Arbitration,<sup>61</sup> and the Protocol on [of] Progressive Arbitration;<sup>62</sup> The South American Anti-War Treaty.<sup>63</sup> In cases of recourse to arbitration, it considers it necessary to exclude pending matters of political character affecting national defense, and it also considers that in matters of conciliation it would be preferable given the nature of the matter, not to stipulate exceptions.

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<sup>57</sup> *Foreign Relations*, 1928, vol. I, p. 153.

<sup>58</sup> *Ibid.*, 1923, vol. I, p. 308.

<sup>59</sup> *Ibid.*, 1929, vol. I, p. 653.

<sup>60</sup> Additional Protocol to the General Convention of Inter-American Conciliation, signed at Montevideo, December 26, 1933, *ibid.*, 1933, vol. IV, p. 226.

<sup>61</sup> Signed January 5, 1929, *ibid.*, 1929, vol. I, p. 659.

<sup>62</sup> Signed January 5, 1929, *ibid.*, p. 667.

<sup>63</sup> Anti-War, Nonaggression, and Conciliation Treaty, signed at Rio de Janeiro, October 10, 1933, *ibid.*, 1933, vol. IV, p. 234.

With reference to the Peace Code which will again be presented at the Lima Conference, this Chancellery points out that the proposed Commission of Conciliation is of slow procedure, especially insofar as taking up its duties is concerned, this being a defect already inherent in the Gondra Pact.

The Argentina Delegation is instructed to insist on the Argentine reservation made in connection with Article VI of the Convention to Coordinate, Extend and Assure the Fulfilment of the Existing Treaties Between the American States. That is to say, it considers that foodstuffs destined for civil populations should not be defined as contraband of war and that the authorization of credits to finance the acquisition of said foodstuffs is not an act contrary to neutrality.

With reference to determination of the aggressor, this Chancellery believes it would be better to leave this topic until another opportunity presents itself, bearing in mind the difficulties encountered by writers in establishing a clear and well defined concept thereof, as well as the difficulties which have risen within the League of Nations itself.

On the subject of sanctions, experience has demonstrated that those of moral character are more practicable and also perhaps a few of purely juridical character, because, as long as the application of material sanctions is not general, it has no effect. With regard to sanctions of juridical character, the Argentine Delegation will eventually support anything that tends to define concretely certain measures (to be taken), and to establish whether they shall be compulsory or merely recommended.

The Argentine Chancellery likewise considers that the mechanism established in various American conferences for the Codification of International Law is perhaps somewhat complicated and for this reason it believes it advisable to modify the permanent committees and to suppress the Committee of Experts.

With respect to financial claims, the Argentine Delegation will submit a project on diplomatic protection; and with regard to nationality it will reaffirm its opinion on "*jus soli*" as a fundamental system, without admitting double nationality in any form. All this provided that circumstances and the atmosphere of the Conference do not make it advisable to lay these projects aside.

Likewise the Argentine Delegation is instructed to maintain the affirmation of the principle that juridical persons have no nationality; it will also maintain the classic principles relative to the recognition of belligerency.

In matters of immigration this Chancellery believes that no system of quotas should be established among the American Republics, and that it is necessary, however, clearly to establish the right to regulate and select immigration in accordance with national requirements.

With regard to Chapter IV which refers to women's political and civil rights, it considers that this is a subject of purely internal character.

Lastly, it will support all that tends to promote intellectual co-operation and moral disarmament.

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710.H Agenda/146

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] October 27, 1938.

The Argentine Ambassador<sup>64</sup> called to see me this afternoon at my request. I told him that I had discussed with the Secretary of State the instructions to the Argentine delegation to the Lima Conference which the Argentine Government had been good enough to communicate to us,<sup>65</sup> and I went over with him point by point the instructions as he had conveyed them to me and indicated our own feeling with regard to all of the matters involved.

I further told the Ambassador that this Government was preparing a project of coordination of peace machinery, not as yet with any fixed intention of presenting it at the conference, but perhaps solely for the purpose of having it available should it be seen that there was a genuine desire on the part of the delegates to accept such a project. I told the Ambassador that as soon as we had completed the project<sup>66</sup> a copy of it would be transmitted immediately to his Government for its information and that should the United States delegation have any further specific proposals to present to the conference his Government would likewise be informed thereof.

The Ambassador expressed gratification that the points of view of this Government and of his own Government were so similar, as was evident by the comments I made upon the instructions to his own delegation.

S[UMNER] W[ELLES]

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710.H Agenda/165

*The Chargé in Argentina (Tuck) to the Secretary of State*

No. 2275

BUENOS AIRES, November 3, 1938.

[Received November 12.]

SIR: I have the honor to refer to the Embassy's despatches No. 2257 of October 21 and No. 2266 of October 27, 1938, in which particular

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<sup>64</sup> Felipe A. Espil.

<sup>65</sup> See *supra*.

<sup>66</sup> *Report of the Delegation of the United States of America to the Eighth International Conference of American States*, p. 193.

reference was made to a project which the Argentine Delegation intends to support at the Lima Conference, with a view to amplifying neutral consultation as provided for in Article II of the Convention for the Maintenance, Preservation and Reestablishment of Peace, signed at Buenos Aires in December, 1936.

From the information received indirectly from one of the Argentine delegates to the Lima Conference, I learn that while the project to amplify neutral consultation has not as yet taken definite form, the delegates are at present at work on establishing a draft text. This report was confirmed yesterday by Dr. Gache, the Under Secretary for Foreign Affairs, who informed me that no text has as yet been adopted.

I am informed on the best of authority that the project is definitely the personal idea of the Minister for Foreign Affairs, Dr. Cantilo, and was conceived by him with a view to blocking Central American and Colombian support for a League of American Nations and an International Court, both of which ideas the Argentine Government strongly opposes.

From the same source I learn that the Argentine Delegation does not intend to press its draft at Lima provided the two objectionable projects above mentioned can be side tracked. In this case the Delegation would be prepared to allow its draft to become a Conference recommendation or resolution which would express a pious "hope" that Foreign Ministers of American states will meet when convenient.

Respectfully yours,

S. PINKNEY TUCK

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710.H Peace/1

*The Secretary of State to Diplomatic Officers in the American Republics*

WASHINGTON, November 15, 1938.

SIRS: Experience has disclosed that the multiplicity of peace instruments to which the American countries are parties has often resulted in confusion and delay when specific occasions arose in which one or more pacts might have been or were invoked. Some of these peace instruments are complementary to one another but in many cases they have introduced duplication and overlapping.

In a belief that a combination and integration of these various peace instruments would be desirable, the Department has drafted a consolidated peace treaty, three copies of which are attached hereto.<sup>67</sup> It includes the substance of the principal provisions of

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<sup>67</sup> *Report of the Delegation*, p. 193. See also "Proyecto de Tratado Sobre Consolidación de los Convenios Americanos de Paz," *Diario de Sesiones*, p. 144, and index, p. xxxvi.

every treaty combined and simplified in order to provide logical progression from one peace procedure to another.

You are requested to seek an immediate interview with the Minister for Foreign Affairs of the country to which you are accredited and hand him, for the study and consideration of his Government, a copy of the draft project. You should explain this Government's regret that it has not been possible to give him this document for his consideration at an earlier date, and that your Government is of course aware that the brevity of time before the opening of the Conference in Lima will make impossible the very thorough and careful study which he undoubtedly would wish to give to a project of this importance. Nevertheless, your Government has believed that his Government might entertain a similar view to that of this Government concerning consolidation of the peace instruments and therefore that he would be interested in examining the results of the Department's effort, so that should the idea of a consolidated peace treaty meet with the favor of his Government and of the other American countries, the draft submitted to him with any improvement that may seem desirable might then be employed as the basis for discussion at the forthcoming Conference.<sup>68</sup>

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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710.H Continental Solidarity/2

Radio Bulletin No. 267

November 15, 1938.

*White House Press Conference*

[Extract]

A correspondent inquired whether anything could be said with regard to the study being made of national defense needs. The President referred to a White House conference yesterday afternoon attended by Secretary of the Treasury Morgenthau, Works Progress Administrator Hopkins, Solicitor General Jackson, Assistant Secretary of War Johnson, the Chief of Staff and other War Department officers, and went on to speak of the nature of the study being undertaken. He said that world events during the last few years and scientific advancement in methods of waging war had required a change in the whole orientation of this country with relation to the continent on which we lived—from Canada to Tierra del Fuego. He said that

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<sup>68</sup> Favorable reactions were received from Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Mexico, Nicaragua, and Venezuela.



there existed today a continental solidarity among the twenty-one American republics and Canada which was more definite and unanimous than had ever before been the case in the one hundred and twenty years since the Latin American republics were struggling for independence. There was now substantial unanimity in the belief that as a continental doctrine we must be prepared to carry on the outline of continental solidarity established at Buenos Aires, and it was accordingly necessary to see what steps might be required to maintain this continental solidarity against any threat from outside. The first thing realized was that possible attack had been brought infinitely closer than it was twenty or even five years ago. One of the several reasons for this fact was the development of aircraft. The President said that a study was therefore being made of national defense and continental solidarity with the possibility of an attack from other continents in mind. He said that the study had not yet reached the point where figures could be cited, but that it might be said that continental safety today was far too low. Steps to remedy the situation would be taken with the resources already at the disposal of the Government, and Congress would be asked for legislation to place the defense of the continent against attack from any other continent on a safe basis.

A correspondent inquired whether this meant that national defense had now become a question of continental defense. The President replied that this was the case, in cooperation with the other American republics and with Canada. Asked whether the possibility of a defection from continental solidarity had been taken into consideration, the President said that he anticipated no such defection. Asked whether study was being given to the construction of a fleet sufficient for the defense of both coasts simultaneously, the President replied in the negative. In reply to an inquiry as to what steps would be necessary to finance the program involved, the President said that it was not yet possible to say. A correspondent inquired whether revision of the neutrality legislation was included in the program. The President replied in the negative, saying that what was under study was measures of national defense. A correspondent asked whether the Philippine Islands were being taken into consideration. The President replied that the American flag still floated over the Philippines.

A correspondent asked what it was that had made it necessary to undertake the national defense study at this particular time. In reply, the President advised the correspondent to read the newspapers for the last five years.

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710.H Continental Solidarity/12

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

No. 2440

BOGOTÁ, November 17, 1938.

[Received November 19.]

SIR: I have the honor to enclose herewith the text as published in the press and an English translation of a statement given to the United Press by President Santos late yesterday. This was published in prominent positions in all of the morning newspapers, whether United Press subscribers or not.

As the Department will note, the statement of President Santos is closely connected with that of President Roosevelt issued two days ago, the latter of which has received thoroughly favorable comment in all of the newspapers and from officials and other persons in Bogotá with whom I have had occasion to talk.

Respectfully yours,

WINTHROP S. GREENE

[Enclosure—Translation]

*Text of Statement of President Santos as Published in "El Liberal" of November 17, 1938*

The harmonious action of all the countries of America for the defense of the independence and the liberties of the continent not only is opportune but necessary. Loyally understood and practiced, it can give America's international policy a most noble aspect and constitute an efficacious guarantee for all. The Monroe Doctrine, which in its time was a decisive factor in the independence of the New World, which later was looked upon with suspicion as a synonym for undesirable tutelage, and which today has certain anachronisms in that much in it that was good has been accomplished and that its unilateral nature was not sufficiently effective within the limits of present American realities, can and should be renewed by this new doctrine of solidarity of common defense which is based upon mutual respect, sincere equality and faithfulness to the principles of right.

So, with an attitude of firm frankness, the principle of collective security, a guarantee of peace and international justice which cannot be substituted, can live fruitfully in this hemisphere. Everything counsels the peoples of America to follow this path and Colombia is prepared to do so.

EDUARDO SANTOS  
*President of Colombia*

710.H Continental Solidarity/6 : Telegram

*The Minister in Panama (Corrigan) to the Secretary of State*

PANAMA, November 17, 1938—2 p. m.

[Received 7:01 p. m.]

127. President Arosemena yesterday afternoon released the following statement to the press in reference to the President's statement of November 15 concerning continental solidarity against outside threats:

"The attitude of the Panamanian Government and people is completely favorable to the proposal to organize the common defense of the American continent against whatever aggression or threat of aggression proceeding from other continents, as President Roosevelt has proclaimed. The delegation of this country to the coming conference of the American Republics will receive instructions to support every initiative there put forth toward making this end possible."

CORRIGAN

710.H Continental Solidarity/13

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

No. 2441

BOGOTÁ, November 17, 1938.

[Received November 19.]

SIR: I have the honor to inform the Department that the Colombian Senate in its closing session yesterday, as reported in the press,<sup>69</sup> approved the following declaration, in translation:

The Senate of Colombia expresses its admiration and its gratitude to Franklin D. Roosevelt, President of the United States of America, for his effective defense of democratic ideas and systems; for his intervention to save the peace within and without the continent; and for the loyal and constant carrying out of the "good neighbor" policy, based on respect of the sovereignty of all peoples.

In the name of the Republic of Colombia, the Senate confirms its wish to continue serving the principle of American solidarity which has inspired the international policies of President Roosevelt.

This declaration was made following the report of the committee charged with the study of the bill proposing the Colombian citizenship for President Roosevelt, referred in the Legation's despatch No. 2394 of October 24, 1938.<sup>70</sup> As the granting of citizenship to President Roosevelt was impracticable under Colombian law, the

<sup>69</sup> *El Liberal*, November 17, 1938.

<sup>70</sup> Not printed.

matter was settled by the unanimous approval of the declaration quoted above, the Spanish text of which is enclosed herewith as published in the press. The official text is not yet available but it is not presumed to differ from that in the press.

Respectfully yours,

WINTHROP S. GREENE

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710.H Continental Solidarity/10: Telegram

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

SANTIAGO, November 18, 1938—6 p. m.

[Received 10:39 p. m.]

136. The Foreign Minister has just given to the United Press for publication, and the Foreign Office has delivered to this Embassy, the following statement regarding President Roosevelt's remarks of November 15th regarding continental solidarity as relating to defense:

"President Roosevelt's statement has been most sympathetically welcomed in Chile. With the report just published in the press it is not possible to appreciate the real scope of the ideas propounded by the eminent Chief Executive of the great republic to the north; nevertheless, it may be stated, pending the formulation of a concrete proposal, that there is no intention of promoting the revival of doctrines or practices already fallen into desuetude or that establishment of standards for continental isolation, but that the purpose is to crystallize into terms of effective action, the solidarity of the American nations.

On other opportunities thought has been given to matters analogous to those President Roosevelt now has in mind. A resolution was adopted at the Buenos Aires Conference for the Maintenance of Peace<sup>11</sup> providing 'that every act susceptible of disturbing the peace of America affects each and every one of them (the American Republics) and justifies the initiation of the procedure of consultation'; such solidarity functions by means of the procedure for consultation whereunder it is agreed to consider collectively each case in which the peace or the interests of the community of the American nations or of any country whatsoever individually are imperilled.

We are aware of the difficulties which will arise in endeavoring to give contractual form to an idea such as the proposed. But that should not be an obstacle to prosecuting its study. The democratic processes of America fortunately permit the free discussion of these subjects.

The Chilean delegation to the Lima Conference will number among its instructions one to make more effective the system of reciprocal consultations among all the American countries for each case which may interest them. And as it has been said that every act which disturbs the peace of America affects all of us, as soon as a situation affecting the peace arises, the system of consultation which we hope to see perfected at the Lima Conference ought to begin to function.

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<sup>11</sup> See *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace*, pp. 227, 228.

I couple these ideas with the object of making at once a constructive contribution to the dilucidation [*elucidation?*] of the problem raised by the statement of President Roosevelt.”

Privately, Señor Cohen <sup>72</sup> spoke of advisability that United States utterances and comments avoid any indication that continental solidarity on trade matters could be involved, as several countries feel that they could not afford even indirectly to compromise their commerce with other continents.

ARMOUR

710.H Continental Solidarity/11 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, November 19, 1938—1 p. m.

[Received 2:02 p. m.]

104. The Minister of Foreign Affairs informs me that he has made a statement to the United Press regarding President Roosevelt's recent declaration concerning the defence of this continent and that he said that he sympathized with the idea of increasing the moral and material solidarity of the peoples of America. With respect to a general agreement he would have to know its form in order to study the details. He added that at the moment his Government was not engaged in the study of any project therefor.

REED

710.H Continental Solidarity/26 : Telegram

*The Chargé in Argentina (Tuck) to the Secretary of State*

BUENOS AIRES, November 23, 1938—7 p. m.

[Received 8:41 p. m.]

313. In conversation this afternoon with the Minister of Foreign Affairs he made particular reference to his own recent declaration concerning President Roosevelt's statement at the press conference of November 15.

The reaction of the local press to the President's statement was contained in the Embassy's despatches numbers 2299 and 2300 of November 18 <sup>73</sup> which also referred to Dr. Cantilo's views as reported in the press.

Doctor Cantilo told me in substance that while his Government believed in a policy of continental solidarity and collaboration, and de-

<sup>72</sup> Benjamin Cohen, secretary general and alternate delegate of the Chilean delegation.

<sup>73</sup> Neither printed.

sired to maintain complete cooperation in all Pan American problems, it could not at the same time turn its back on Europe. He was of the opinion that Argentina should continue its traditional policy of assisting the sister nations of the continent, but would find it difficult to subscribe to military pacts or engagements which might give the impression of drawing away from friendly European nations.

He added that while this point was not included on the agenda at Lima, he felt that it would be necessary to clarify his Government's attitude when the Conference met.

TUCK

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710.H Agenda/221

*The Acting Secretary of State to the Secretary of the Navy  
(Swanson)*<sup>74</sup>

WASHINGTON, November 25, 1938.

MY DEAR MR. SECRETARY: Attached is a copy of a Project of Convention on the Prohibition of Aerial Bombardments<sup>75</sup> to be submitted to the Eighth International Conference of American States by the Delegation of Mexico.

The Department would be pleased to have the comment of your Department on the Mexican proposal for transmission to the American Delegation at Lima. In as much as the Conference will convene on December 9 it will be appreciated if the Department could have the benefit of your views at an early date.

Sincerely yours,

SUMNER WELLES

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710.H Continental Solidarity/43: Telegram

*The Chargé in Argentina (Tuck) to the Acting Secretary of State*

BUENOS AIRES, [undated.]

[Received November 26, 1938—4: 57 p. m.]

316. With reference to Embassy's despatch No. 2266 of October 27, 1938, Minister for Foreign Affairs sent me today his project relative to meeting of Ministers for Foreign Affairs which he intends to put forward at Lima Conference. He adds that the terms of the project may be subject to modification provided the fundamental principle is not altered.

"The Governments represented at the Eighth Inter-American Conference,

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<sup>74</sup> The same, November 25, to the Secretary of War.

<sup>75</sup> *Ante*, p. 21.

Whereas: that apart from the system of consultation stipulated in the convention signed at Buenos Aires for the maintenance of, preservation and reestablishment of peace, it is mutually advantageous to establish a more effective contact in the event that situations should arise the scope of which may not be contemplated in that convention and which, in view of definite circumstances, it might be advisable to consider in common; that it is also fitting to promote direct mutual knowledge among the American Republics as well as the study of political, economic, cultural and any other problems; that to this end it is appropriate when a situation arises which may affect America directly or indirectly, that the Ministers for Foreign Affairs of its various Republics meet in one of its capitals; that besides the meetings referred to above, it is also advisable that other meetings of a regional character be held by the said Ministers in order to consider problems deriving from situations of closer proximity.

Recommend:

1. That the Ministers for Foreign Affairs of the American Republics, when they deem it advisable, hold meetings in the various capitals of those Republics, in rotation and without giving formal character to such meetings.

2. That besides these general meetings, it is considered advisable, for the purposes indicated in the fourth introductory clause, that the Foreign Ministers hold meetings of a regional character in order to consider matters which concern them by reason of closer proximity.

3. Should they be unable to attend such meetings, the Ministers for Foreign Affairs shall be represented by special delegates.

4. These meetings shall be arranged by mutual agreement and at the initiative of any American country."

Repeated to Panama for delegation.

TUCK

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710.H Continental Solidarity/44: Telegram

*The Acting Secretary of State to the Chairman of the American Delegation to the Eighth International Conference of American States (Hull), on Board the S. S. "Santa Clara," at Sea*

WASHINGTON, November 28, 1938—5 p. m.

3. We received on November 26 the following undated telegram from the Embassy in Buenos Aires which I quote in full:

(Quote No. 316, from Buenos Aires, undated).<sup>76</sup>

In my own judgment the text of this proposed resolution is more satisfactory than I had anticipated but it would seem to me that Article 1 might better read "That the ministers for foreign affairs of the American republics whenever inter-American consultation is required, and at such other times as they deem it advisable, hold meetings in such capital of those republics as may be considered most convenient."

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<sup>76</sup> *Supra.*

If you agree with my opinion and if a general agreement along these lines is had, Article 4, of course, would have to be modified so as to make it clear that the meetings resulting from a demand for consultation are obligatory, whereas other meetings may be "arranged by mutual agreement" as the Argentine text now has it.

WELLES

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710.H Agenda/223

*The Secretary of War (Woodring) to the Secretary of State*<sup>77</sup>

WASHINGTON, November 30, 1938.

DEAR MR. SECRETARY: Reference is made to your letter of November 25, 1937, (Le<sup>78</sup>), regarding a Project of Convention on the Prohibition of Aerial Bombardments to be submitted to the Eighth International Conference of American States by the Delegation of Mexico.

The War Department, on various occasions since 1923, has concurred in limiting bombardment from the air to military objectives and has favored the establishment, by international convention, of rules tending to prevent indiscriminate bombing and the useless slaughter of civilians by such means. The War Department adheres to its past position in this matter.

With regard to the subject Convention, there appears to be no military objection to Articles 1 and 2, and sub-paragraphs (a) and (c) of Article 3. In the opinion of the War Department, sub-paragraphs (b) and (d) of Article 3 are faulty for the reasons set forth below:

*Sub-paragraph (b)*: The acceptance of this provision would permit bombing of practically all industrial plants of a nation, irrespective of whether or not such plants are contributing at the time to the production of munitions. It is believed that air bombing of industrial plants should be limited to those plants actually engaged in the production of munitions.

*Sub-paragraph (d)*: This provision would permit the bombing of all rolling stock used on important strategical lines of communication. Rolling stock used solely for the transportation of sick, wounded, and civilians should be afforded the protection contemplated under the provisions of sub-paragraph (c) of Article 1, regardless of where such rolling stock is operated.

At a recent date the War Department obtained a copy of the Program and Regulations of the Eighth International Conference of American States, distributed by the Pan American Union. From an examination of this Program, the War Department was led to the belief that no matters of direct or great importance to National De-

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<sup>77</sup> Copy transmitted to Mr. Hull, then in Peru, under covering letter of December 2, not printed.

<sup>78</sup> Office of the Legal Adviser.



fense would be taken up at the forthcoming Conference. The submission by Mexico of the Convention on the Prohibition of Aerial Bombardments, which Convention affects military operations and the employment of Army and Navy air forces, would seem to indicate that the agenda for the Conference may be expanded to include other matters of vital importance from a National Defense viewpoint. In such an event, it is requested that the views and recommendations of the War Department be sought and considered prior to the acceptance by our Delegates of any Convention affecting National Defense.

Sincerely yours,

HARRY H. WOODRING

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710.H Continental Solidarity/49: Telegram

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

RIO DE JANEIRO, December 1, 1938—1 p. m.

[Received 2:48 p. m.]

282. Aranha<sup>79</sup> showed me this morning a copy of a telegram which he had sent to Pimentel Brandão<sup>80</sup> (which I assume you have already seen) summarizing a telegram he had received from Rodrigues Alves<sup>81</sup> to the effect that Cantilo is planning, in his opening address at Lima,<sup>82</sup> to oppose the idea of any collective security pact. The telegram which Aranha showed me stated that Cantilo is opposed to the Latin American Republics breaking away from Europe and relying exclusively upon the United States for protection since, as he expressed it, American foreign policy is unstable due to the possibility of changes in the internal political situation. Aranha instructed Alves to impress upon Cantilo that any such opening address could not fail to throw the Conference into complete discord at the outset as it would call for a statement of position by the other Republics and Brazil at least would be forced to take a stand diametrically in opposition to Argentina. Aranha is not certain, however, whether Cantilo received this message or what his attitude now is as the telegram was only sent to Buenos Aires on the eve of the departure of the Argentine delegation.

Aranha asked me to bring this to your attention merely to make sure that you have a clear picture of his views.

SCOTTEN

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<sup>79</sup> Oswaldo Aranha, Brazilian Minister for Foreign Affairs.

<sup>80</sup> Mario de Pimentel Brandão, Brazilian Ambassador in the United States.

<sup>81</sup> José de Paula Rodrigues Alves, Brazilian Ambassador in Argentina.

<sup>82</sup> Address of Dr. José María Cantilo, Minister for Foreign Affairs of Argentina, December 10, 1938, *Report of the Delegation of the United States of America to the Eighth International Conference of American States*, p. 88. Dr. Cantilo was not a member of the Argentine delegation but was in Lima on a special official visit from December 6 to December 12.

710.H Continental Solidarity/53 : Telegram

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

WASHINGTON, December 2, 1938—1 p. m.

139. Your 282, December 1, 1 p. m. Please inform Aranha that I am grateful for his message and that the Brazilian Ambassador here has already presented the situation very clearly to me. I am seeing the Ambassador again this afternoon to go into the matter more fully with him and I have already informed the Secretary of State by radio of the situation to which Aranha refers.

Since our position will be explained in detail to the Brazilian Ambassador here, it will be preferable for you not to discuss the matter at any great length with Aranha. For your confidential information, however, I may say that it seems to me that the most important objective to be sought at the Lima Conference is harmony and the demonstration of an identity of views and purposes on the part of all of the delegations. I consider that it would be disastrous for any open break to take place at the conference which would make public to the rest of the world any wide divergence of views between the American Republics at this moment. Furthermore, in as much as the Argentine Government appears to be disposed to cooperate effectively in providing for the implementation of the already existing consultation obligation, it would seem likely that very real progress along the line desired by Aranha can be made with the unanimous approval of all of the governments represented even if that progress does not go quite so far as the Brazilian and the United States Governments might desire.

WELLES

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710.H Continental Solidarity/52 : Telegram

*The Acting Secretary of State to the Chairman of the American Delegation (Hull), on Board the S. S. "Santa Clara"*

WASHINGTON, December 2, 1938—7 p. m.

16. My No. 12, December 1, 7 p. m.<sup>82a</sup> The Brazilian Ambassador called to see me this afternoon with a further message from Aranha. Aranha has received a message from Cantilo of a conciliatory character indicating that he will try to reach an agreement with the Brazilians before making his address at the conference. Aranha, while gratified, is nevertheless sending instructions to Mello Franco<sup>83</sup> to insist that the Argentines accept the Brazilian point of view. It would

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<sup>82a</sup> Not printed.

<sup>83</sup> Afranio de Mello Franco, Chairman of the Brazilian delegation.

seem to me probable that you would wish immediately after arrival in Lima to confer with the Argentine and Brazilian delegates with a view to seeking some common ground for understanding. The situation as it is developing reminds me very much of the situation which existed during the first days of the Buenos Aires Conference.

WELLES

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710.H Continental Solidarity/51 : Telegram

*The Chairman of the American Delegation (Hull) to the Acting Secretary of State*

S. S. "SANTA CLARA," December 3, 1938—noon.  
[Received 3:45 p. m.]

6. Your 12, December 1, 7 p. m., section 4.<sup>83a</sup> It seems probable the Argentine view, if it is as outlined by Aranha, will not receive general support. All delegations encountered thus far express themselves as anxious to implement fully the idea of continental solidarity.

We are endeavoring to recast the Argentine proposal in the form of the additional protocol and to include in the preamble a clause definitely indicating that each American country is concerned in case of attempted domination of any such country by a non-American nation or by a system dominated from overseas, so that consultation may be definitely limited, among other things, to considerations of continental defense. We will endeavor to discuss the Argentine proposal and the suggested speech with Cantilo and Mello Franco on arrival.

Certain delegations including Venezuelans are considering the idea of proposing a Spanish armistice.<sup>84</sup>

HULL

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710.H Continental Solidarity/54 : Telegram

*The Chairman of the American Delegation (Hull) to the Acting Secretary of State*

LIMA, December 6, 1938—2 p. m.  
[Received 4:07 p. m.]

11. For the Under Secretary. We have drafted and are taking up tentatively with the delegations on board a redraft of the Argentine proposal. Instead of a resolution we propose an additional protocol to the Buenos Aires Pact. Preamble follows the Argentine text excluding economic and cultural matters. It continues:

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<sup>83a</sup> Not printed.

<sup>84</sup> For documents on the Spanish Civil War, see vol. I, pp. 149 ff.

"Article 1. In the event that the peace of the American Republics is menaced by force or threat of force or any activities of whatever kind directed by a non-American Government with the intention to subvert the domestic institutions of any American Republic or to establish therein a non-American system of government the American nations recognize (a) that each is equally concerned; (b) that all such acts and activities should be resisted; (c) that each of the American Republics has an equal responsibility in this respect it being understood, however, that the Government of each republic shall act in its own separate capacity in any steps undertaken, and with full recognition of their juridical equality, as sovereign and independent states. They agree that they will consult in any event, taking into account this agreement and all the circumstances."

Article 2 contains substance of Argentine resolution but includes provision for regular meetings in each year other than those of inter-American conferences.

Have you any comment?

HULL

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710.H Continental Solidarity/56: Telegram

*The Acting Secretary of State to the Chairman of the American Delegation (Hull)*

WASHINGTON, December 7, 1938—8 p. m.

29. Your 11, December 6, 2 p. m. Article 1 of the Protocol which has been drafted seems to me to meet the situation admirably and to cover fully everything that we require.

If it is provided in Article 2 for regular meetings of the Ministers for Foreign Affairs or their delegates it seems to me that it would be particularly desirable that provision be made so that all of the governments be enabled to know at least 60 days in advance of the meeting the precise questions to be dealt with at such meeting.

WELLES

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710.H Continental Solidarity/55: Telegram

*The Minister in Venezuela (Gonzalez) to the Secretary of State*

CARACAS, December 8, 1938—8 p. m.

[Received 8:17 p. m.]

113. Only for the President. Following information confidentially learned from the Minister of Foreign Relations conveyed herein to you directly because of its immediate importance and because your leadership and counteraction are as they have been manifestly the only effective instruments to overcome opposition and to sustain the success of the Latin American policy established by you.

Was informed that German and Italian observers are to be at Lima Conference to spread influence action against questions of defense, etc. and to oppose any success by us at the Conference by creation of a bloc. The Minister for Foreign Affairs showed me a cabled instruction to the Venezuelan delegation instructing it to cooperate in every way with the delegations of the United States and of Brazil and further that on controversial questions no opposition in open debate should be made to the position taken by the above mentioned countries, differences if any to be discussed privately with a view to reaching amicable agreements.

Have advised Secretary Hull at Lima.

GONZALEZ

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710.H Continental Solidarity/80 : Telegram

*The Chairman of the American Delegation (Hull) to the Acting Secretary of State*

LIMA, December 8, 1938—11 p. m.  
[Received December 9—10:45 a. m.]

18. 1. Project on consultation. I gave Cantilo a copy of the redraft of the Argentine project as transmitted to the Department by telegram No. 11 of December 6, 2 p. m. Cantilo, while expressing himself in favor of effective and frequent consultation, raised certain questions regarding my redraft. He said that Argentina desired the greatest flexibility in any arrangement for consultation and that it should be recognized that since Argentina has special relations with Europe it is particularly desirable that the forms of any arrangement not be prejudicial to those relations. I saw Ruiz Moreno<sup>85</sup> this afternoon who states that our redraft would receive the careful study of the Argentine delegation, that he would send me tomorrow a revised Argentine draft which he hoped we would also study carefully, that Argentina is disposed to cooperate with the United States in every way possible, that he thought the two countries would be in accord on fundamentals after understanding each other's point of view, and that he thought agreement could be reached on form.

After talking with Cantilo I saw Mello Franco. He stated that the Argentine Government was not interested in and had no desire for any military alliance, that it is keenly desirous of building a superstructure on the foundations laid at Buenos Aires, that it is concerned by the increasing activities of foreign nations in this hemisphere, although it is not afraid of any attempt of aggression by forceful means and that it is in favor of consultation to take place regularly

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<sup>85</sup> Isidoro Ruiz Moreno, Chairman of the Argentine delegation.

and periodically and at any time when the security, integrity or independence of any American country is threatened from any non-American source by whatever means. Mello Franco expressed himself as warmly in support of our project and stated that he would talk with Cantilo about it and endeavor to dislodge Cantilo's misapprehension as to its purpose and objective.

I have outlined to Concha<sup>86</sup> our project and he has expressed himself as favorable to it. He is now studying the text.

2. Concha surprised me by stating his realization that the United States was in danger and asking what action was desired of the Conference.

He obviously was under the impression that some project for an alliance would be presented by this Government. I endeavored to clear up this misapprehension by explaining our position as developed in my speech. Other delegations apparently labor under the same misapprehension, which I am endeavoring to dispel.

3. Our project for consolidation of peace machinery appears to be meeting with favorable reception.

4. Your No. 28, December 7, 6 p. m.<sup>87</sup> Inasmuch as we are now vigorously pressing the consultative project before other delegations, it would seem desirable to confer upon but not to press the refugee matter for a few days. Discreet soundings are being made of the attitude of the several countries as suggested. Obtaining the desired information may be helped by a resolution, suggested by Cuba, condemning all persecution for racial or religious reasons and calling upon the American countries to continue to adhere to principles of tolerance.

HULL

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710.H Agenda/245

*The Acting Secretary of the Navy (Leahy) to the Secretary of State*

WASHINGTON, December 14, 1938.

SIR: Acknowledgment is made of State Department letter of November 25, 1938, file Le, enclosing a copy of a Project of Convention on the Prohibition of Aerial Bombardments to be submitted to the Eighth International Conference of American States by the Delegation of Mexico.

The Navy Department does not object to the general proposal submitted by the Mexican Delegation, but as no military or naval advisers

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<sup>86</sup> Carlos Concha, Peruvian Minister for Foreign Affairs, later President of the Conference.

<sup>87</sup> Not printed.

are on the American Delegation, it is recommended that conventions affecting military operations be not considered at the present Conference.

Respectfully,

WILLIAM D. LEAHY

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710.H Agenda/251 : Telegram

*The Acting Secretary of State to the Chairman of the American Delegation (Hull)*

WASHINGTON, December 16, 1938—8 p. m.

57. Relative to Mexican project respecting Aerial Bombardments, Navy Department states it does not object to the general proposal, but expresses its own view that, in absence of military or naval advisers to United States delegation, projects "affecting military operations be not considered at the present Conference".

WELLES

### (c) Instructions to Delegates

710.H/215

*The Secretary of State to the American Delegation to the Eighth International Conference of American States*<sup>88</sup>

WASHINGTON, [undated.]

SIRS: The Eighth International Conference of American States, to which you have been designated as representatives of our country, is one of the periodic conferences of this type to be held on the Western Hemisphere since 1889, when this Government invited the American Republics to meet in Washington. Allow me to express your Government's appreciation of the importance of the occasion and its sense of the responsibility which you have undertaken in accepting appointment to represent it at such an important gathering.

### A. INTRODUCTION

#### I. *Importance of Conference*

The importance of this Conference has been considerably augmented by the events and experiences of recent years. Never before have the need and benefit of neighborly cooperation in every form of human

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<sup>88</sup> The delegates were designated by President Roosevelt on November 23, and Cordell Hull was appointed Chairman. For list of delegates, see *Report of the Delegation of the United States of America to the Eighth International Conference of American States*, p. 3.

activity been so evident as they are today. Friendship among nations calls for constructive efforts to muster the forces of humanity in order that an atmosphere of close understanding and cooperation may be cultivated. You will endeavor to be guided by the policy enunciated by President Roosevelt in his inaugural address:<sup>89</sup> "The policy of the good neighbor—the neighbor who resolutely respects himself and, because he does so, respects the rights of others—the neighbor who respects his obligations and respects the sanctity of his agreements in and with a world of neighbors". You will keep in mind the conviction that the well-being of one nation depends in large measure upon the well-being of its neighbors.

## II. *General policy*

It is an established principle of our international policy that: "Among the foreign relations of the United States as they fall into categories, the Pan American policy takes first place in our diplomacy". The policy of the Government of the United States towards the Republics of Latin America is one of mutual beneficial cooperation and it is of paramount importance that the spirit of this policy be manifested in your attitude and action at the Conference.

The coming together of men typical of the best feeling and thought of all the Republics of the Western Hemisphere can be an important factor in the promotion of friendly international relations. Pan-Americanism has been founded upon the common ideals and a community of interest among the American Republics and it is with this in view that I desire you to give your studious attention not only to the particular subjects before the Conference, but also to promote the policy of the "Good Neighbor".

You should endeavor, therefore, to impress upon the representatives of the other American Republics that we desire, above all, their material prosperity and their political security and that we entertain only friendly sentiments for them. You will endeavor to foster a spirit of generous cooperation and manifest a sincere interest in their respective efforts and aspirations. It should not seem opportune for the delegates of the United States to assume a role of leadership in the Conference, either in its official organization or in its discussions. Your attitude should be to favor a friendly expression of views by the delegates of the various countries and, with due regard to the specific instructions which appear hereinafter, to support only those proposals which would appear to be of common interest and which merit the unanimous approval of the American Republics.

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<sup>89</sup> *Congressional Record*, vol. 77, pt. 1, p. 5; see also, Address by President Roosevelt before the Special Session of the Governing Board of the Pan American Union at Washington, on Pan American Day, April 12, 1933, Department of State, *Press Releases*, April 15, 1933, p. 243.



The instructions given the delegates to the Fifth Conference and repeated in the instructions for the Sixth<sup>90</sup> stated as follows:

“It should be borne in mind that the function of these conferences is to deal, so far as possible, with non-controversial subjects of general interest, upon which free and full discussion may be had with the purpose and probability of arriving at agreement and cooperation. International questions which cause prolonged and even bitter and controversial debate are not infrequently, in their important aspects, of actual interest only to a small group of nations. It is believed that in this Conference the most fruitful results will be obtained if discussion is confined to those aspects of the various topics which are of interest to all the Republics.”

With respect to political differences between the American Republics, it is important that you exercise great caution. You will bear in mind that the present Conference has not been called to sit in judgment on the conduct of any nation or to attempt to redress alleged wrongs. In this connection, it will be recalled that academic discussion has been carried on at certain previous conferences which led to no practical results, but which tended to create an atmosphere not entirely harmonious.

The United States has always maintained the view that the competency of these conferences does not extend to the assumption of the responsibilities of an arbitral board. It has been the policy of the United States to lend its good offices to the settlement of conflicts between sister-Republics, but to refrain from any effort to have these conferences take cognizance of any existing controversy with a view to its settlement, unless the good offices of that body are invoked by both the opposing parties.

#### B. CONVOCATION OF CONFERENCE

The Seventh International Conference of American States at Montevideo in 1933 designated Lima as the seat of the Eighth Conference.<sup>91</sup> The Governing Board of the Pan American Union adopted regulations for the Conference at its meeting on March 9, 1938, copies of which appear in the *Handbook for the Use of Delegates*, pages 5-10, inclusive.

The program of the Conference was formulated by the Governing Board in accordance with the accepted practice. It consists of (1) subjects which were recommended by the Seventh International Conference of American States and the Inter-American Conference for the Maintenance of Peace; (2) subjects pending from previous conferences; (3) subjects relating to special technical conferences,

<sup>90</sup> *Foreign Relations*, 1928, vol. I, pp. 534, 535.

<sup>91</sup> *Report of the Delegates of the United States of America to the Seventh International Conference of American States*, p. 194.

and (4) topics which have been suggested by various member governments. This program has the unanimous approval of the governments of the twenty-one American Republics. The following is the program for the Conference :

#### CHAPTER I

##### *Organization of Peace*

1. Perfecting and coordination of inter-American peace instruments. (Including topics on investigation, conciliation and arbitration, and the Code of Peace; definition of the aggressor, sanctions, and the strengthening of means for the prevention of war.)
2. Creation of an Inter-American Court of International Justice.
3. Creation of a League or Association of American Nations.
4. Declaration with respect to the American doctrine of the non-recognition of territory acquired by force, embodying the declaration made at the Second [*First*]<sup>92</sup> and Sixth International Conferences of American States,<sup>93</sup> the Inter-American Conference for the Maintenance of Peace,<sup>94</sup> and in the Declaration signed at Washington on August 3, 1932.<sup>95</sup>

#### CHAPTER II

##### *International Law*

5. Consideration of rules relative to the codification of international law in America.
6. Consideration of reports and projects formulated by the Committee of Experts on the Codification of International Law, on the following subjects:
  - (a) Pecuniary Claims.
  - (b) Nationality.
  - (c) Immunity of Government Vessels.
7. Nationality of Juristic Persons.
8. Uniformity and perfection of the methods of drafting multilateral treaties, including the form of the instruments, adherence, accession, deposit of ratifications, etc., and means to facilitate ratifications.
9. Principles relative to the recognition of belligerency.

#### CHAPTER III

##### *Economic Problems*

10. Inter-American commercial policy.
  - (a) Elimination of restrictions and limitations on international trade.
  - (b) Application of the most-favored-nation clause.
11. Creation of an Inter-American Institute of Economics and Finance.

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<sup>92</sup> Recommendation: The Right of Conquest, adopted April 18, 1890; First International Conference of American States, International American Conferences, *Reports of Committees and Discussions Thereon*, English ed. (Washington, Government Printing Office, 1890), vol. II, p. 1122.

<sup>93</sup> Sixth International Conference of American States, *Final Act, Motions, Agreements, Resolutions and Conventions*, English ed. (Habana, 1928), p. 179.

<sup>94</sup> Declaration of Principles of Inter-American Solidarity and Cooperation, *Final Act of the Inter-American Conference for the Maintenance of Peace, Buenos Aires, December 1-23, 1936*, p. 16.

<sup>95</sup> *Foreign Relations, 1932*, vol. v, p. 159.

## 12. Inter-American communication facilities.

- (a) Continental and insular maritime communications and port facilities.
- (b) The Pan American Highway.<sup>86</sup>
- (c) Other measures.

13. Appointment of a commission of jurists to study and formulate a plan to bring about uniformity of commercial law and, as far as it may be possible, of civil law.

## 14. Immigration.

15. Consideration of the status of the Indian and rural populations, and the adoption of labor regulations.

## CHAPTER IV

*Political and Civil Rights of Women*

16. Report of the Inter-American Commission of Women.

## CHAPTER V

*Intellectual Cooperation and Moral Disarmament*

17. Means of promoting inter-American intellectual and technical cooperation, and the spirit of moral disarmament.

18. Consideration of the project of convention on intellectual property drafted by the Inter-American Commission on Intellectual Property of Montevideo.

19. Conservation and preservation of natural regions and historic sites.

## CHAPTER VI

*The Pan American Union and the International Conferences of American States*

20. Functions of the Pan American Union and cooperation of the Union and the International Conferences of American States with other international entities.

21. Future International Conferences of American States.

## CHAPTER VII

*Reports*

22. Consideration of the report on the status of treaties and conventions signed at previous conferences.

23. Consideration of the results of inter-American conferences held since the Seventh International Conference of American States.

For your convenience the following instructions have been arranged, although developments and circumstances during the Conference may necessitate a modification of these instructions.

## CHAPTER I

*Organization of Peace*

*Topic 1.* "Perfecting and coordination of inter-American peace instruments. (Including topics on investigation, conciliation and arbitration, and the Code of Peace; definition of the aggressor, sanctions, and the strengthening of means for the prevention of war.)"

<sup>86</sup> See *Foreign Relations*, 1937, vol. v, pp. 175 ff.

It is thought that the main topic as well as the sub-topics, except the Code of Peace, the definition of the aggressor and sanctions, which have been dealt with in separate instructions and memoranda, can be covered by proposing a comprehensive consolidated draft of a treaty covering the important features of the various inter-American peace agreements, which appear to comprehend adequate and useful means for the prevention of war and the pacific solution of conflicts or disputes which have thus far been proposed.

A draft on Consolidation of American Peace Agreements has been prepared, copies of which are in the files of the delegation,<sup>97</sup> as well as an explanatory memorandum. This draft has been transmitted to the Governments for their information and suggestions. It is probable that other draft projects will be presented on this subject and you will use your discretion about presenting this draft to the conference. (See *Handbook*, pp. 11-14).

#### *The Code of Peace*

The Peace Code is a project presented by the Mexican delegation to the Montevideo Conference of 1933<sup>98</sup> as later revised and presented to the Buenos Aires Conference in 1936. A memorandum on this subject is in the files of the delegation. Since as appears from the memorandum the project in question is unacceptable to the United States in several important particulars you should refrain from supporting the project in the event that it is presented to the Lima Conference in its present form. (See *Handbook*, pp. 14-15).

#### *Definition of the Aggressor*

A memorandum on this subject is in the files of the delegation. This memorandum sets forth the great difficulties which exist in framing an acceptable definition, as is evidenced by various failures to reach an agreement thereon.

If the entrance into such an agreement is to involve the loss by the Contracting Parties of their character as neutrals in the event of a war, and is to require the employment of some kind and degree of force or sanctions as against the power deemed to be an aggressor, it is apparent that the subject under consideration is one of great importance which demands the most careful consideration before any commitment regarding it is undertaken by the United States. There naturally will arise the question as to how and by whom the aggressor is to be determined. It is not believed that the United States would desire to surrender its freedom of judgment or of action in these matters.

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<sup>97</sup> The files of the delegation are in the National Archives, Washington, D. C.

<sup>98</sup> For text, see *Report of the Delegates of the United States of America to the Seventh International Conference of American States*, pp. 226-244.

Consultation in the event of war or threat of war is already provided for by Articles I and II of the Convention for the Maintenance, Preservation and Reestablishment of Peace,<sup>99</sup> by Article 1 of the Additional Protocol Relative to Non-Intervention,<sup>1</sup> and by Article 2 of the Convention to Coordinate, Extend and Assure the Fulfillment of the Existing Treaties between the American States.<sup>2</sup>

If serious consideration is given this subject, it is believed that the delegates should give careful study to the President's proposal of May 16, 1933,<sup>3</sup> and to the definition of an aggressor brought forward by the Honorable Norman H. Davis on May 22, 1933,<sup>4</sup> both of which are set forth on page 17 of the memorandum on this general subject. (See *Handbook*, pp. 15-17).

### *Sanctions*

A memorandum on the subject is in the files of the delegation. You will observe therefrom that the efforts made by the League of Nations to apply the sanctions provided for in its Covenant were unsuccessful in result and that the League apparently has discarded the use of sanctions.

As set forth in the memorandum, present agreements between the American States, such as the Saavedra Lamas treaty of 1933,<sup>5</sup> the Convention of 1933 on the Rights and Duties of States,<sup>6</sup> and the Convention for the Coordination, Existence [*Extension*], and Fulfillment of Existing Treaties between the American States,<sup>7</sup> contemplate the possible use in given situations of mild measures of sanctions.

In view of the League's experience and of the conflicting interests involved, it is believed that the time is not ripe for the employment of strong sanctions and that an effort to employ them might create greater evils than it would correct.

Accordingly, you will indicate that this Government cannot favor projects which may have for their purpose the strengthening of present provisions in agreements between the American States relative to the employment of sanctions, and you will abstain from voting on any such project which shall be presented to the conference. (See *Handbook*, pp. 15-17).

<sup>99</sup> *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936*, p. 116.

<sup>1</sup> *Ibid.*, p. 124.

<sup>2</sup> *Ibid.*, p. 131.

<sup>3</sup> *Foreign Relations, 1933*, vol. I, p. 143.

<sup>4</sup> For correspondence concerning Mr. Davis' statement, see *ibid.*, pp. 172 ff.

<sup>5</sup> Signed at Rio de Janeiro, October 10, 1933, *ibid.*, vol. IV, p. 234.

<sup>6</sup> Signed at Montevideo, December 26, 1933, *ibid.*, p. 214.

<sup>7</sup> *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace*, p. 131.

*Topic 2.* "Creation of an Inter-American Court of International Justice."

A memorandum on this subject is in the files of the delegation. There also is a report of the Governing Board of the Pan American Union, which was prepared in accordance with the Resolution of the Buenos Aires Conference of 1936. That report states that the desirability and expediency of creating an Inter-American Court of Justice is a question of policy which the Governing Board was not in a position to decide.

You may state the position, in discussing this matter with other delegates, that in view of public opinion in the United States as manifested by the successful contest waged in this country against membership by the United States in the Permanent Court of International Justice at The Hague,<sup>8</sup> it would be impracticable to attempt to bring the United States into an Inter-American Court of Justice. You may add that, if any of the other American Republics wish to create such a court, the United States would regard the move with friendly interest but could not participate in its establishment. If deemed advisable, you may take this attitude at committee meetings and in plenary sessions of the conference. Accordingly, you will abstain from voting on any proposal for the constitution of a court and sign no agreement to that end which might be adopted by the conference.

*Topic 3.* "Creation of a League or Association of American Nations."

A Project of Treaty on the Association of American Nations has been prepared by the Governments of Colombia and the Dominican Republic in accordance with Resolution 10 of the Inter-American Conference for the Maintenance of Peace at Buenos Aires. This project is printed on pages 20-24 of the *Handbook for the Use of Delegates*. This has some features similar to the Code of Peace and it contains provisions relating to the aggressor and to the application of sanctions. Instructions and comments on those topics apply equally to this draft project. There is in the files of the delegation a memorandum on this subject.

The draft project provides for the following agencies of the Association: (1) Pan American Congress meeting annually and endowed with political powers; (2) a permanent secretariat, probably distinct from the Pan American Union, and (3) organizations which the Association might establish. The draft treaty provides for the determination of an aggressor, the application of sanctions, close cooperation with the League of Nations, and the denouncement of all international agreements which have already been concluded that may be incompatible with the treaty.

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<sup>8</sup> See *Foreign Relations, 1935*, vol. I, pp. 383 ff.

This Government is heartily in favor of taking all practical steps for the maintenance of peace. It is believed that the American nations have made substantial progress in perfecting an effective plan for the maintenance of peace, and that these Treaties, especially the Inter-American Treaties signed at Buenos Aires in 1936, constitute a solid and satisfactory foundation for a desirable inter-American relationship. It would seem that the most desirable procedure would be to modify or supplement these various agreements as experience demonstrates such amendment or implementation to be necessary.

The kind of inter-American relationship which would result from the proposed draft treaty is of a much different scope both practically and juridically than that provided for by the existing treaties and peace machinery. This Government is of the opinion that a proposal which contemplates such a far-reaching change in inter-American relations should receive over a protracted period the most thoroughgoing scrutiny by all the American governments before the wisdom of the essential character of the proposal could be determined. So far as this Government is concerned many of the provisions could not be reconciled or coordinated with our existing statutes and it is believed that the same is true with regard to a number of the other countries.

If you should consider it necessary and desirable to state the position of this Government, you may indicate frankly, without in any way attempting to influence the opinions of the other delegations, that the United States can not become a party to such a treaty since many of its provisions are in conflict with existing United States policy and legislation. (See *Handbook*, pp. 20-28).

*Topic 4.* "Declaration with respect to the American doctrine of the non-recognition of territory acquired by force, embodying the declarations made at the Second [*First*] and Sixth International Conferences of American States, the Inter-American Conference for the Maintenance of Peace, and in the Declaration signed at Washington on August 3, 1932."

This topic relates to a proposed declaration by the conference with respect to the American doctrine of the non-recognition of territory acquired by force embodying the declarations made at the First and Sixth International Conferences of American States, and the Inter-American Conference for the Maintenance of Peace, and the Declaration signed at Washington, August 3, 1932. This doctrine is also set forth in Article II of the so-called Saavedra Lamas treaty signed at Rio de Janeiro, October 10, 1933.

A memorandum on the subject of the proposed declaration is in the files of the delegation. It contains the previous declarations above mentioned and a proposed declaration for the consideration of the Lima Conference.

The adoption by the conference of a declaration along the lines proposed in the memorandum might be useful as embodying in one document the views set forth in previous declarations of the American States, thus conducing to convenience and coordination. Should a majority of the delegations favor such a declaration you should support it. (See *Handbook*, pp. 28-31).

## CHAPTER II

### *International Law*

*Topic 5.* "Consideration of Rules relative to the codification of international law in America."

There is no international law on the subject of codification, nor is there such a thing as international law "in America" as distinguished from general international law. Codification is a process by which the rules of international law, public or private, are reduced to code form by agreement among the states. The method of codification is therefore a matter to be determined by agreement between the states.

There is in the files of the delegation a memorandum dated October 1, 1938, which indicates that the process or method agreed upon by the American Republics for the codification of international law has repeatedly been amended by them, until it is now difficult, if not impossible, to determine precisely the procedure to be followed. The Commission of Experts, meeting in Washington in April 1937, resolved to call to the attention of the respective National Commissions the desirability of concluding a convention "which will reintegrate, after revision, all the organic provisions in the matter contained at present in the various resolutions on the subject".

You may transmit to the Conference the attached draft of a Convention on the Codification of International Law.<sup>9</sup> By the terms of this draft the process of codification may be regularized, simplified, and expedited. It is possible that other drafts will be presented to the Conference for consideration.

The draft which has been prepared in the Department eliminates the Commission of Jurists and three Permanent Committees but leaves the National Committees, through the respective governments, and the Commission of Experts to carry on the initiation of draft projects for the subsequent consideration of the governments and the successive regular International Conferences of American States. This fundamental change in the procedure is in the interest of simplicity, and of expedition in the selection of subjects susceptible of codification and the preparation of bases of discussion or draft conventions on the

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<sup>9</sup> Not printed.



basis of the views submitted by the respective states. By implementing the process of codification with unnecessary and cumbersome machinery, as is done in the existing resolutions, we make it almost impossible for the work of codification to progress.

While, as indicated above, the draft convention eliminates the Commission of Jurists and, as a practical matter, substitutes for that body the Commission of Experts (a much smaller group), if it is found at the Conference that the other countries desire to retain the Commission of Jurists and to eliminate the Commission of Experts, it is not believed that the American delegation need strongly oppose such a change. It should be pointed out, however, that if this change is made the United States representation will be at the ratio of 1 to 20 on the Commission of Jurists whereas on the Commission of Experts it is now at the ratio of 1 to 6. (See *Handbook*, pp. 32-39.)

*Topic 6.* "Consideration of reports and projects formulated by the Committee of Experts on the Codification of International Law, on the following subjects:

- (a) Pecuniary Claims.
- (b) Nationality.
- (c) Immunity of Government Vessels."

The Committee of Experts is meeting in Lima about two weeks before the opening of the Eighth Conference and hence its reports and projects are not yet available. It is believed that projects may be submitted by the Committee to the Lima Conference, most of which may require mature consideration before they can be approved. Consequently, many delegations may desire to have them referred to their governments for study and you should adopt a similar position. It is deemed desirable by this Government that projects on such important subjects be made available well in advance of a conference so that they may be given adequate consideration.

*Topic 7.* "Nationality of Juristic Persons."

As to corporations, the Government of the United States, for the reasons stated in the memorandum on this subject which is in the files of the delegation, could subscribe to an international code containing a statement to the effect that the nationality of a corporation is that of the state in which it is organized.

There is no uniform law in the United States as concerns ordinary partnerships and joint stock companies, since their status is determined by the laws of the various states in which they are organized, and these laws are far from being uniform. Furthermore, the concept of ordinary partnerships and joint stock companies in the laws of the United States, where common law predominates, differs materially from the concept of such organizations in the other Ameri-

can republics, where civil law governs. In the United States such organizations are not regarded as being juristic persons having citizenship separate and distinct from that of their members, but the opposite seems to be true with regard to corresponding organizations in the other American republics. In other words, the same facts which persuaded the Government of the United States that it could not subscribe to the code of private international law adopted at the Sixth International Conference of American States at Habana, Cuba, in 1928, commonly known as the Bustamente Code, would seem to be applicable to any code concerning the status of ordinary partnerships and joint stock companies, unless it is limited as hereinafter suggested.

If it is made clear in the proposed convention on juristic persons that it is to be applicable only in international relationships, and is not designed to change the legal status of partnerships or other organizations within the several states parties to the convention, this Government would be able to subscribe to the convention, especially in view of the fact that it now practically treats joint stock companies and partnerships in connection with diplomatic protection and claims as entities having American nationality. (See Memorandum in Relation to Evidence Necessary to Establish the American Nationality of Corporations, Joint Stock Companies and Partnerships, a copy of which is annexed to the Memorandum herewith.<sup>10</sup>)

It is important for the American delegation to avoid agreeing to any convention on the nationality of Juristic Persons which could be construed to mean that this Government could not extend diplomatic protection to the interests of its nationals in foreign corporations. (See *Handbook*, pp. 47-53.)

*Topic 8.* "Uniformity and perfection of the methods of drafting multilateral treaties, including the form of the instruments, adherence, accession, deposit of ratifications, etc., and means to facilitate ratifications."

Your attention is especially called to the *Special Handbook for the Use of Delegates*, pages 53 to 62. The resolution in regard to the functions of the Pan American Union as a depositary of ratifications of multilateral treaties, as well as the resolutions having the purpose of expediting ratifications by the Governments, will be of especial interest to the delegates. There is in the files of the delegation a memorandum on this subject.

Uniformity and Perfection of the Methods of Drafting Multilateral Treaties are discussed in a report dated September 15, 1938, prepared by the Permanent Committee of Rio de Janeiro on the Codification of Public International Law. Among other things the report

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<sup>10</sup> Neither printed.

points out that the organs for the conclusion of treaties are foreign offices negotiating directly with each other and with international conferences or congresses at which States are represented by plenipotentiary delegates. The Eighth International Conference of American States is a conference of the kind mentioned.

The Permanent Committee on Codification states in its report that it does not seem to be possible to generalize the practice of the Conferences of the International Labor Organization and in this point of view this Government agrees. The report recommends the adoption of a standard form of multilateral treaties based on the "academic (*didáctico*)" approach and maintains that the procedure with reference to adherence, accession and deposit of ratifications now expressed in treaties of the American Conferences is satisfactory. While the Department is not prepared to say that the present practices are perfect it is not making any recommendations for specific changes in them.

The Committee replies in the negative to the question whether multilateral treaties should contain clauses providing for the acceleration of ratification. The Department agrees with the position of the Permanent Committee that the exchange of copies of laws and regulations enacted to put multilateral treaties into active operation should be provided for. It also agrees that the use of "the discreet and friendly offices of diplomacy", as suggested by the Committee is the only appropriate method to employ to expedite the ratification of treaties which have been signed.

*Topic 9.* "Principles relative to the recognition of belligerency."

It is believed that the subject of the "Principles Relative to the Recognition of Belligerency" is so broad in scope and so technical in its nature as to require considerable preparatory work prior to the conclusion of any conventional agreement on the subject.

The United States is of the view that this subject cannot adequately be dealt with at the Lima Conference; that it requires greater consideration in view of its importance than the Conference could possibly give to it. It is doubted, moreover, whether it is a proper subject to be referred to the entities to be established for the purpose of codification. The subject is a delicate one, and the question of the recognition of belligerency is not controlled in the first instance by international law. Each state must decide for itself whether, taking into consideration its own interests, as well as many other factors—including its proximity to the scene of civil strife, the effect of the conflict upon its trade and commerce, its nationals, its relations with the central government, the character of the revolt, and the purposes and policies of the revolutionists—recognition of belligerency should

be extended. It is not perceived how the subject could be covered by a code except in most general terms which, if the governments are to be allowed the freedom of action they now have and are entitled to have, would not constitute an improvement upon the situation that now obtains.

If, nevertheless, it should be decided at the forthcoming Conference that this subject should be "submitted to the consideration of those entities which have been or that may be created for the codification of international law", and the reference of the subject to those entities should take the form of a Resolution, care should be taken that the Resolution shall contain express provisions that the process of codification to be followed shall be identical with the general process of codification to be followed with respect to other subjects. The convention on Codification will doubtless prescribe a method for selecting the subjects to be codified. This subject might be designated as one of the first subjects to be taken under consideration. Such a provision would avoid the irregular procedure envisioned by the Buenos Aires Resolutions which referred certain topics to the Committee of Experts for reports to the next Inter-American Conference, without providing that the regular process of codification should be followed in relation to the subjects so referred and without providing that the Governments should in anywise be consulted by the Committee of Experts. A repetition of this procedure should be avoided.

### CHAPTER III

#### *Economic Problems*

##### *Topic 10. Inter-American Commercial Policy*

- (a) Elimination of restrictions and limitations on international trade
- (b) Application of the most-favored-nation clause

The American Delegation has during the past several meetings of American States taken considerable leadership in bringing before these States the decisive economic and political reasons for bringing about a general lowering of trade restrictions and establishing an enlarged international trade firmly on a basis of general benefit and equality.

The Delegation will do its utmost to carry forward this policy at Lima. A resolution setting forth the main principles of policy on both topics (a) and (b) has been prepared, and will be introduced into the Conference. This must be preceded by careful prior consultation between the American Delegation and other Delegations in order to ascertain their views as to the detailed terms and phrases

of the resolution, and possible modification of the present text may be considered in the light of these consultations.

*Topic 11.* Creation of an Inter-American Institute of Economics and Finance.

As the special handbook for the use of delegates, prepared by the Pan American Union, points out (pp. 81-83), a numerous variety of proposals in one way or another suggesting the creation of inter-American organizations of economic and financial cooperation may come before the Conference, partly as legacy from the proposals brought forward at the Seventh International Conference and left in an indefinite state. Such proposals have ordinarily been of both an ambitious and vague character, difficult to visualize as the agencies for any immediately feasible work in the economic and financial field; towards other proposals of similar character that may come forward, experience seems to indicate the necessity that the American Delegation retain a position of reserve.

Considerable thought has been given as to the usefulness in putting before the Conference a resolution designed to bring about periodic informal meetings of representatives of Treasuries. It is thought that such meetings might serve as the occasion for the exchange of experience and information and to foster general mutual knowledge of the situation of individual countries and also to indicate gradually the possibilities of more extended cooperation in this field. A short resolution has been prepared on this matter and may be introduced into the Conference.

In the event it is decided to go forward with this resolution, it would be appropriate to consult the Chilean Delegation before action is taken, since at the Montevideo Conference it was agreed that the next inter-American Financial Conference should take place in Chile.

Thought is also being given to the wisdom of introducing another resolution designed to provide preliminary steps towards regularizing and developing consultation in commerce and other economic fields. There is no permanent intergovernmental machinery among the American Republics at the present time with this duty. The text of a possible resolution on this matter is being considered.

*Topic 12 (a).* Continental and Insular Maritime Communications and Port Facilities.

This Government was requested by the Pan American Union to prepare projects on these subjects. Resolutions and recommendations were formulated and presented for distribution to the other Governments. The resolutions submitted deal with the subjects of tourist travel and maritime communications. The recommendations concern shipping statistics and the interchange of maritime information.

The development of a greater tourist travel is a subject which is of prime importance at the present time to American shipping interests, particularly the United States Maritime Commission. The Department is also interested in this subject as a part of its policy to develop friendly relations with the other American Republics.

While some results have been obtained by the actions of past conferences, there remains much to be done by many countries along the line of reducing or eliminating requirements which act as a barrier to tourist travel. It is not contemplated that each country should open its doors to tourists without restriction but only to ask that every document or other requirement which can reasonably be eliminated be stricken from the regulations or waived for tourists. The various handicaps to the development of tourist travel are dealt with in memoranda prepared in the Maritime Commission, copies of which are available in the files of the Delegation.

The subject of tourist travel under this topic should be considered in connection with Topic 14, Immigration.

The subjects of maritime communications, shipping statistics and the interchange of maritime information are dealt with in a memorandum on Topic 12 (a) which is contained in the files of the Delegation. Strictly from the point of view of American shipping, these matters are important in view of recent improvements and contemplated future improvements in the various shipping services maintained, most of them with Government aid, to the other American Republics.

There is in the files of the Delegation material dealing with the Brazilian Freight Rate Law of 1937 and material on the subject of the alleged proprietary rights of national shipping to national trade, which are included as of possible interest to the Delegation in the event of any discussion of these subjects. (See *Handbook*, pp. 83-86.)

(b) Pan American Highway.

This Government has taken an active interest in the project for the construction of a highway to connect all of the American Republics. Information on the highway and on the activities of this Government in connection therewith will be found in the following documents in the files of the Delegation: 1, the text of an article on the Pan American Highway which appeared in *Foreign Affairs* for July 1938; 2, a statement on the status of construction; and, 3, a mimeographed memorandum reviewing the activities of the Government of the United States and various international conferences with regard to the highway. These documents contain detailed information on the actual assistance which has been extended by this Government. This Government also is cooperating with the other American Republics

under the terms of the Convention on the Pan American Highway signed at Buenos Aires on December 23, 1936.<sup>11</sup>

The Financial Committee appointed in accordance with the provisions of this Convention has prepared a report which has been submitted to the governments members of the Pan American Union which you are authorized to approve if submitted to the Conference.

In addition to this report the Financial Committee may present suggestions designed to create a mechanism for the financing of the construction of the highway through the issuance of bonds and for the maintenance and operation of the highway from certain sources of revenue specified in the protocol. The Department should be consulted regarding any specific proposal before any commitments are made by the Delegation.

At the request of the Pan American Union this Government has submitted for consideration at the Conference a resolution urging the member governments to ratify the Convention on the Pan American Highway signed at Buenos Aires in 1936 and to construct the sections of the highway in their respective territories. The other resolution submitted by this Government provides for a possible revision of the Convention on the Regulation of Automotive Traffic.<sup>12</sup> You are authorized to give your support to any action designed to further the purposes of these resolutions.

While this Government has cooperated and is prepared to continue its cooperation with the other interested governments in the completion of the Pan American Highway, it does not consider it appropriate or advisable for representatives of this Government to urge upon any other government the acceptance of assistance which this Government is prepared to give in connection with the construction of the highway. It is believed that the delegates should bear this policy in mind in any discussion of the projected highway which may be held. (See *Handbook*, pp. 86-90.)

(c) Other Measures.

*Aviation*

Although aviation is not on the agenda of the Eighth International Conference of American States, it is possible that there may be some discussion under this topic. Having this in mind, this Government prepared two resolutions on aviation, the texts of which have been sent to the Pan American Union for distribution among the governments members of the Pan American Union. One of these resolu-

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<sup>11</sup> *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace*, p. 159; see also *Foreign Relations*, 1936, vol. v, pp. 151 ff.

<sup>12</sup> Signed at Washington, October 6, 1930, *ibid.*, 1930, vol. i, p. 297.

tions recommends the general ratification of the Inter-American Convention on Commercial Aviation adopted at Habana on February 20, 1928,<sup>13</sup> during the Sixth International Conference of American States, and the other recommends that sympathetic consideration be given by the governments of the American Republics to the resolutions and recommendations adopted at the Inter-American Technical Aviation Conference held at Lima in September 1937<sup>14</sup> with a view to putting them into practice, so far as possible, at an early date.

It is believed that general ratification of the Habana Convention at this time would render it possible to determine in the light of actual experience in what manner the Convention might require revision. Such experience would be of value, should the Permanent American Aeronautic Commission (CAPA), the organization of which was provided for at the Aviation Conference in Lima in September 1937, have occasion to consider the revision of the Convention.

Adoption, so far as may be found practicable, of the resolutions on aviation adopted at Lima in September 1937 is considered desirable, in order that the labors of that Conference will have practical results.

Copies of the Habana Convention on Commercial Aviation, with the resolutions of the Inter-American Technical Aviation Conference held at Lima in September 1937, and the report of the American Delegation to that Conference, will be found in the files of the Delegation.

#### *Telecommunications*

While telecommunications is not on the agenda of the Eighth International Conference of American States, it is probable that there may be some discussion under this topic, especially with regard to broadcasting. With this in view this Government prepared two resolutions on radio, the texts of which have been sent to the Pan American Union for distribution among the governments members of the Pan American Union.

The first of these resolutions recommends the ratification of or adherence to the agreements adopted at the Inter-American Radio Conference, Habana, November 1–December 13, 1937, by the governments members of the Pan American Union. The second of these resolutions recommends to each of the governments members of the Pan American Union that they consider plans for utilizing the Pan American frequencies in order that the people of all the American Republics may benefit from inter-American broadcasts.

While there are doubtless many technical problems in the field of telecommunications of interest to the members of the Pan American

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<sup>13</sup> *Foreign Relations*, 1928, vol. 1, p. 585.

<sup>14</sup> See *ibid.*, 1937, vol. v, pp. 198 ff.



Union, it is suggested that a more appropriate forum for their consideration are such regional conferences as the Inter-American Radio Conference and the South American Radio Communication Conference, which will meet simultaneously at Santiago in the first quarter of 1940.

However, should the Conference desire to consider the question of the elimination of objectionable broadcasts, this Government will be prepared to become party to a resolution recommending that each government member of the Pan American Union should, so far as its internal legislation permits, seek means to prevent any broadcasting inimical to good understanding and friendship between the different members of the Union.

*Topic 13.* "Appointment of a commission of jurists to study and formulate a plan to bring about uniformity of commercial law and, as far as it may be possible, of civil law."

In as much as the several States of the United States, with the exception of the State of Louisiana, possess a system of law based generally upon common law as distinguished from civil law, it is evident that the United States cannot from a practical standpoint participate in the formulation of a code of uniform civil law. If the republics of this hemisphere desire to entrust the work of preparing a uniform civil code to some acceptable body, the Delegation of the United States should merely refrain from voting on the instrument which may be concluded looking to that end. Its abstention might be explained, if necessary, on the grounds just stated.

On the subject of the desirability of entrusting to a body the formulation of a plan to bring about uniformity of commercial law, it may be stated that in view of the fact that commercial law is largely influenced by the civil-law or common-law system prevailing in the particular jurisdiction, and in as much as the United States is the only common-law country represented in the group of states attending the inter-American conferences, it may be questionable whether it will be feasible to bring about uniformity of commercial law to such an extent as would be useful to the United States.

On this subject, also, it is also desired that the Delegation of the United States refrain from voting if the matter is brought before the Conference. Its abstention might be explained, if necessary, on the ground that not only is common law, as distinguished from civil law, the basis of our law generally, but also the subject is one falling within the jurisdiction of the several States of the Union, rendering the adoption of any such code an extremely difficult task. In other words, the work would not be a practical and worthwhile undertaking so far as the United States is concerned. (See *Handbook*, pp. 93-95.)

*Topic 14. "Immigration."*

Immigration policy is considered by this Government as a matter of domestic concern which is to be determined by each country with reference to its particular economic and social needs. The special handbook prepared by the Pan American Union for the use of the delegates to the Conference contains on pages 95 to 98, inclusive, background information relating to the consideration of immigration problems. The Department, while recognizing the domestic nature of the immigration policy of each country, is interested in the immigration problems of the American states and is prepared to participate in a helpful way in the study of these problems. Matters relating to the disposition of refugees from central European countries are being considered by the Intergovernmental Committee on Political Refugees,<sup>15</sup> which has its seat at London.

The facilitation of tourist travel between the American states is a subject of considerable interest to the Department. This topic was discussed at the Seventh International Conference of American States held at Montevideo in December 1933 and at the Pan American Commercial Conference held at Buenos Aires in May and June 1935.<sup>16</sup> The recommendations adopted at these conferences have led to the modification by various American states of the requirements relating to the entry and sojourn of tourists.

A memorandum on this subject is in the files of the Delegation and it contains information regarding the requirements of the United States for tourists. These requirements are comparatively simple. The delegates to the Conference may wish to consider from the viewpoint of the tourist the requirements of the various countries for tourists with a view to having the delegates recommend to their governments the taking of such further steps as may be feasible to reduce to a minimum the requirements for tourists and the study of the question of providing, where needed, transportation, hotel, sightseeing and other facilities in order to encourage travel by persons of moderate means.

The United States Government, under authority conferred by the act of February 5 [25], 1925,<sup>17</sup> has concluded agreements with forty-seven countries for the reduction or waiver of visa fees for nonimmigrants. Agreements of this kind have been concluded with all the American states except Argentina, Bolivia, Paraguay and Uruguay. The Department is prepared at any time to conclude agreements with

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<sup>15</sup> See vol. I, pp. 758 ff.

<sup>16</sup> See *Report of the Delegates of the United States of America to the Pan American Commercial Conference Held at Buenos Aires, Argentina, May 26-June 19, 1935* (Washington, Government Printing Office, 1936), pp. 8, 17, 78, 132-134.

<sup>17</sup> 43 Stat. 976.

the governments of these countries for the waiver or reduction of visa fees for nonimmigrants.

Although, as you will note from the memorandum, the Secretary of State has authority to designate countries in the Western Hemisphere the citizens of which, if domiciled therein, may come to the United States without passports or visas, it is not contemplated that such exemption will be extended, for the time being, at least, to countries other than those contiguous to or near the United States as specified in the present visa regulations, copies of which are enclosed with the memorandum for reference purposes. As it is of great convenience to a tourist in establishing his nationality status and his classification as a tourist to have a passport and a visa, tourist travel may be encouraged to a greater degree by simplifying the requirements of obtaining visas and by issuing visas without charge than by exempting tourists from passport and visa requirements.

No commitments on behalf of the Government of the United States should, of course, be made without prior reference to the Department for approval. (See *Handbook*, pp. 95-98.)

*Topic 15.* "Consideration of the Status of the Indian and Rural Populations, and the Adoption of Labor Regulations."

In view of the fact that the Bolivian Government has already issued invitations for a Continental Congress of Indianists to be convened at La Paz on August 2, 1939, the Delegation may take the position that specific proposals with respect to Indian life should be referred to that conference, where they would receive more adequate consideration than could be given to them at Lima. A draft text of a resolution recommending that the governments members of the Pan American Union be urged to participate in the La Paz conference is attached. You may introduce this resolution in case a similar one is not presented by some other delegation.

Any specific proposals dealing with rural populations other than Indians, and the adoption of labor regulations with respect to such populations, should receive consideration.

Should proposals be introduced by other delegations in the field of labor in general, the Delegation may indicate that this Government

(1) Is disposed to consider proposals dealing with the collection and publication of statistics and other factual data;

(2) Would be forced to reserve judgment on proposals dealing with actual conditions of labor, bearing in mind the facilities for study and action in this field offered by the International Labor Organization. You will especially keep in mind also in this connection the instructions on Topic 20 hereafter.

Although there is no specific mention of the matter in the agenda, the Conference may be called upon to consider the project to estab-

lish an Inter-American Bureau of Labor, which was the subject of Resolution XXIII,<sup>18</sup> adopted by the Seventh (Montevideo) Conference. The United States Delegation to that Conference was given an instruction on this point which stated that the proposal appeared to be impracticable as an immediate step and that the United States Government could hardly expect to receive a return adequate to the expense in which it would be involved. This Government would still not be able to support a project for an independent inter-American labor office, especially in view of the fact that the United States is now a member of the International Labor Organization, which in the period since the Montevideo Conference has been developing an active program dealing with labor questions of special interest to the American States.

#### CHAPTER IV

##### *Civil and Political Rights of Women*

##### *Topic 16. "Report of the Inter-American Commission of Women."*

Nothing is known with respect to the report which is to be submitted. It is probable, however, that efforts will be made by the Commission to urge the adoption of a Treaty on Equal Rights. It will be recalled that a similar attempt was made at the Montevideo Conference, but it was unsuccessful. Four countries signed a treaty outside the Conference, but none have ever ratified it.

This Government believes that Equal Rights is not an appropriate subject for a treaty and has so maintained at previous conferences. However, it may be necessary to offer as a substitute for the equal rights treaty a resolution drafted somewhat along the lines of Resolution XIX adopted by the Montevideo Conference<sup>19</sup> recommending to the Governments of the Republics of America that they endeavor to bring about the passage of adequate legislation to insure for women full recognition of their rights and duties as citizens.

There is in the files of the Delegation a draft resolution recommending the continuation of the Inter-American Commission of Women in some more permanent form. This Government believes that the time has come to insure that the women of the United States on the Inter-American Commission of Women be appointed by the Government of the United States of America, and it believes that the women representing other countries should be appointed by the Governments of their own States, as representatives of those States. The Government of the United States further believes that any Inter-American Com-

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<sup>18</sup> For text, see *Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933*, pp. 214-218.

<sup>19</sup> *Ibid.*, p. 212.

mission of Women should be an integral part of the inter-American machinery, no longer reporting directly to the Conference but acting in an advisory capacity on the problems of interest to women. Such a Commission should report to the Governing Board of the Pan American Union before each Conference of American States on the issues affecting women which are to be considered by the Conference.

For your confidential information, this Government believes that the manner in which the question of the problems of interest to women has been handled at various Conferences of American States since the Conference at Habana, which established temporarily the Inter-American Commission of Women, has served to bring before each Conference a highly controversial issue which has created irritation and annoyance and retarded the general progress of the Pan American Conferences. Questions affecting women should not be singled out for special treatment by special groups directly with the Conference but should take their place on the agenda and be handled *by the delegations* without the high-powered pressure of a group of persons not representative of either the women or the governments of their respective countries.

You are instructed to present the resolution as the project of the United States or to have it presented by some other delegation, whichever seems the more practical and advisable. This resolution has the support of the most important women's organizations in this country, and you should endeavor to have it approved by the Conference.

There are in the files of the Delegation memoranda and other material concerning this subject for use of the delegates. (See *Handbook*, pp. 104-105).

## CHAPTER V

### *Intellectual Cooperation and Moral Disarmament*

*Topic 17.* "Means of Promoting Inter-American Intellectual and Technical Cooperation, and the Spirit of Moral Disarmament."

This section of the agenda concerns plans for furthering intellectual and cultural exchange among the American States. In recent years notable progress has been made in these matters. In Chapter V (Page 106) of the *Special Handbook for the Use of Delegates* will be found a summary of some of these achievements, and also a list of suggestions for consideration at the present Conference.

The Government of the United States is interested in doing everything possible to encourage and strengthen cultural relations and intellectual cooperation between the United States and other countries, and for this purpose it has created a Division of Cultural Relations in the Department of State.<sup>20</sup>

<sup>20</sup> Established July 18, 1938, by Departmental Order 768.

The Division is now engaged in establishing procedures for carrying into effect the obligations of the Convention for the Promotion of Inter-American Cultural Relations adopted at the Inter-American Conference for the Maintenance of Peace which met in Buenos Aires in December 1936.<sup>21</sup>

In the files of the Delegation are draft resolutions on the following subjects which the Delegation may wish to present to the Conference for its consideration :

1. Resolution to afford recognition to the Sección de Investigaciones Musicales of the Instituto de Estudios Superiores de Uruguay.

2. Resolution urging the establishment of summer or vacation courses in the Spanish, Portuguese, and French languages in certain American Republics.

3. Recommendation of support of the Eighth Biennial Congress of the World Federation of Education Associations to be held in Rio de Janeiro August 6-11, 1939.

4. Resolution recommending that the Governing Board of the Pan American Union study ways and means for increasing the exchange of works of art, literature, and dramatic productions.

5. Resolution recommending to the American Republics that they ratify the Convention for the Promotion of Inter-American Cultural Relations.

Also in the files of the Delegation will be found a memorandum explaining these resolutions.

*Topic 18.* "Consideration of the Project of Convention on Intellectual Property drafted by the Inter-American Committee on Intellectual Property of Montevideo."

The views of the Department in regard to the Project of Convention scheduled for consideration as Topic 18 on the agenda of the Conference and the position which should be taken by the Delegation of the United States are set forth in some detail in a memorandum attached hereto, marked Annex 1.<sup>22</sup>

Careful consideration has been given to all the factors involved in the existing situation affecting inter-American copyright protection and for the reasons set forth in the accompanying memorandum (Annex 1) the Department is of the opinion that the copyright interests of the United States as well as those of the other American Republics, would be materially advanced if the Conference should find it practicable to act in substantial accord with the recommendations of the Committee for the Study of Copyright, a subcommittee of the American National Committee on Intellectual Cooperation. The Committee's recommendations are contained in the document attached hereto marked Annex 9.

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<sup>21</sup> For text, see *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace*, p. 167.

<sup>22</sup> Annexes not printed.

The Delegation is accordingly requested to endeavor to obtain the cooperation of the other delegations for the submission to the Conference of the draft resolution and protocol prepared by the Committee for the Study of Copyright (Annex 9), and if there should appear to be reasonable ground to anticipate their acceptance by the Conference the Delegation should either present the resolution and protocol officially or support its submission by some other delegation, if the latter course should appear to be preferable.

While the Department considers that it is extremely improbable that the Conference will adopt either the Project of Convention prepared by the Montevideo Committee, or the draft convention prepared by the Committee of the League of Nations, it is not improbable that the Conference might adopt a resolution expressing its views as to either or both of the two drafts mentioned and suggesting changes therein. There would be no objection to the American Delegation's joining in such a resolution if its terms did not include approval of provisions which have been or probably would be found unacceptable in the United States. In order that the question of the propriety of the Delegation's joining in such a resolution might be considered by the appropriate authorities of the United States prior to the action of the Delegation, it is suggested that the draft of any proposed resolution be submitted to the Department textually for its consideration and the consideration of the copyright authorities of this Government.

*Topic 19. "Conservation and Preservation of Natural Regions and Historic Sites."*

Material relating to this subject, including a dossier furnished by the American Committee of International Wild Life Protection, is in the files of the Delegation. A project which has been prepared by the Government of Mexico and published by the Pan American Union has been distributed to you.

The project of Mexico outlines the antecedents and the legislation in Mexico on the subject. The Mexican project states that no nation has presented reports on its respective legislation and regulations, but it has been obviously impossible for this Government to present any report in so short a time concerning the national and state legislation and accomplishments in this field.

The Mexican project recommends that the Pan American Union make a comparative study of the measures taken and legislation enacted in each nation and present a study to the Ninth International Conference of American States. Although this procedure seems practical, it is believed that some more positive action should be taken by the Conference. With this in view, there has been formulated a draft resolution which you will present to the Conference.

This draft resolution provides what is believed to be a practical and effective procedure for the conservation and preservation of natural regions and historic sites. It has been drafted in collaboration with the American Committee of International Wild Life Protection and has its support.

This Government is interested in the conservation and preservation of natural regions and historic sites and much has been done in this country by the national and state governments in this field. It is believed that an effort should be made to bring about as rapidly as possible effective measures throughout the Americas. The Delegation will lend its efforts toward the adoption of this or a similar resolution providing a feasible program, consistent with our national and state legislation, which will make effective throughout the Western Hemisphere nature protection, wild life preservation, and preservation of natural scenery and historical sites. (See *Handbook*, pp. 122-125).

## CHAPTER VI

### *The Pan American Union and the International Conferences of American States*

*Topic 20.* "Functions of the Pan American Union and cooperation of the Union and the International Conferences of American States with other international entities."

The Governing Board of the Pan American Union in accordance with resolutions of the Seventh Conference in Montevideo in 1933 and the Buenos Aires Conference in 1936, made a study of the activities and methods of cooperation with other international organizations and has prepared a report and recommendations for consideration by the Lima Conference. This report is printed in the *Handbook for the use of delegates*, pages 126 to 130.

It will be observed that the Governing Board is of the opinion that, in view of the fact that all the sessions of the International Conferences of American States, as well as of the Committees of the Conference, are public, there is no reason for establishing a category of "official observers". With regard to the relations of the Pan American Union with other international organizations, the Governing Board has submitted a resolution to the Conference recommending that the Pan American organs "within the limits of their organic statutes and without complicating or involving the integrity of the international organization of the twenty-one American Republics", cooperate with international organizations in other parts of the world, exchanging information, coordinating investigations and promoting cooperative relations.



It may be stated that the recommendations of this report are entirely satisfactory to this Government. This Government has always maintained the position that the periodic inter-American conferences, the first of which was inaugurated on the initiative of the United States, have been held to discuss matters of special interest to the Republics of the Western Hemisphere. Efforts have been made during recent years to change this purely regional character and the Department views with satisfaction the recent action of the Governing Board on this matter. It is believed that these recommendations, if approved at the Lima Conference, will retain the independence of the inter-American organizations but at the same time encourage the development of cooperation between the inter-American agencies and other international bodies in matters of purely technical character. You should give your full support to these recommendations and it is hoped that they will be adopted by the Conference. (See *Handbook*, pp. 126-130).

*Topic 21. "Future International Conferences of American States."*

The periodic International Conferences of American States, of which this is the eighth, were inaugurated by this Government in 1889. The United States has always shown a deep interest in these regular conferences and has been represented at each of the seven preceding ones. The Inter-American Conference for the Maintenance of Peace, held in Buenos Aires in 1936, although similar to the periodic conferences, was of an extraordinary character. President Coolidge assisted in the inauguration of the Sixth Conference in Habana in 1928, and President Roosevelt attended the opening session of the Buenos Aires Conference in 1936.

It has been customary for each Conference to designate the meeting place of the next conference and it is the opinion of this Government that such a procedure would be appropriate at the Lima Conference. The periodic conferences have been held in Washington, Mexico City, Rio de Janeiro, Buenos Aires, Santiago, Habana, Montevideo, and the forthcoming conference will meet in Lima.

The Department has been informed that the Government of Venezuela will extend an invitation to hold the Ninth Conference in Caracas. The Venezuelan Government has inquired whether this Government will support the invitation and has been informed that the United States Delegation will take pleasure in favoring the proposal that Caracas be the seat of the Ninth International Conference of American States.

## CHAPTER VII

*Reports*

*Topic 22.* "Consideration of the report on the status of treaties and conventions signed at previous conferences."

There is in the files of the Delegation a report on the status, as concerns the United States, of treaties and conventions signed at previous conferences. You may, if you deem it desirable, present this report to the Conference for its information. This report indicates the treaties ratified and outlines briefly the chief objections to those instruments which this Government has not ratified. (See *Handbook*, pp. 131-136.)

*Topic 23.* "Consideration of the results of inter-American conferences held since the Seventh International Conference of American States."

It is not believed that any action will be necessary except to take cognizance of the results of the conferences held since the Seventh International Conference of American States and possibly urge that the results be put into effect. (See *Handbook*, pp. 136-140.)

[File copy not signed]

## II. PROCEEDINGS

710.H Continental Solidarity/74 : Telegram

*The Chairman of the American Delegation (Hull) to the Acting Secretary of State*

LIMA, December 15, 1938—9 p. m.

[Received December 16—6:35 a. m.]

30. 1. Opinion is developing in favor of a declaration instead of convention reaffirming continental solidarity and consultation in case of threat to the peace. Although many drafts have been drawn a text prepared by Concha<sup>23</sup> is one of those now being used as basis for discussions. Under that text American Republics reaffirm their continental solidarity, declare they "shall not permit any intervention either direct or indirect on the part of any non-American state in their external and internal policy", that each state must determine for itself means to be employed in safeguarding "collective security of republic and institutions" and that intervention or threat of intervention necessitates consultation as provided in the Buenos Aires pacts.

The Argentine Delegation presented its project for implementing the machinery of consultation textually as communicated to the De-

<sup>23</sup> Carlos Concha, Minister for Foreign Affairs of Peru, Chairman of the Peruvian delegation, President of the Conference.

partment some weeks ago. Chile proposed a more ambitious project providing for a permanent organ of consultation. The Subcommittee is now combining the two projects more nearly along the lines of the Argentine draft whose final terms should be acceptable although the Argentine Government insists on a declaration rather than a protocol. Regional consultations will apparently be omitted.

If you have any observations on this approach or on the principal provisions of the Peruvian draft would you please let me have them as soon as possible.

2. All countries have now agreed to join in introducing the resolution as drawn in Washington excepting Uruguay, Brazil, Venezuela, Costa Rica and Chile. We have reason to expect that at least three of these countries most probably early tomorrow morning will give their agreement.

3. Renunciation of diplomatic intervention to collect pecuniary claims is presented by the report of the Committee of Experts and also by resolutions introduced by Mexico and Argentina. These resolutions are under study. We are endeavoring to point out that independent resolutions should be combined with the report of experts and to reword the latter so that it will stay within the terms already accepted by us at Buenos Aires.

4. I agreed to support Mexican redraft of resolution suggesting interested governments attend Conference on Indians in Bolivia next year.

5. Our projects on consolidation of peace instruments, informal meetings of Treasury representatives and protection of historic sites were introduced today.

6. As soon as possible I intend to see what can be done regarding Ecuadorean-Peruvian boundary dispute.<sup>24</sup> Have any suggestions in this regard occurred to you since my departure?

7. We have denied a report reaching here from Buenos Aires to the effect that the United States requested naval stations at Callao and Bahia Blanca which were refused.

HULL

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710.H Continental Solidarity/77 : Telegram

*The Acting Secretary of State to the Chairman of the American Delegation (Hull)*

WASHINGTON, December 16, 1938—12 p. m.

61. Your 30, December 15, 9 p. m. The President asked me to let you know that he believes it would be highly desirable to have in-

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<sup>24</sup> See pp. 217 ff.

cluded statement to the effect that the American republics declare they "shall not permit any non-American state to assist or abet in the fomenting of internal disorder in any American republic". The President appreciates that the principle contained in the phraseology above quoted is included in the phraseology quoted in paragraph 1 of your telegram under reference, but he feels that the language which he suggests is stronger and would probably have a helpful effect on public opinion throughout the continent.

I realize of course the extreme difficulties with which you have undoubtedly been confronting with regard to phraseology and that an agreement in principle may already have been reached by the respective delegations. In that event I do not believe the President would wish you to press the matter to such an extent as to risk the danger of a reopening of the entire matter, but if there is still time he feels the phraseology he has suggested would be highly desirable.

I have been somewhat surprised and concerned by the defeatist stories which have been sent up by some of the correspondents at Lima, notably the *New York Times* correspondents. If you feel there is anything which I might say here which might be helpful in order to correct this impression, please let me know.

WELLES

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710.H Continental Solidarity/80: Telegram

*The Chairman of the American Delegation (Hull) to the Acting Secretary of State*

LIMA, December 19, 1938—6 p. m.

[Received 7:44 p. m.]

44. Discussion of the proposed declaration of continental solidarity is still proceeding. The situation is much like that at Buenos Aires. Some 17 countries have indicated that they are substantially in accord with the position of the United States. Concha and Mello Franco,<sup>25</sup> the latter acting as chairman of the First Committee, are endeavoring to harmonize the various views. It is probable that these discussions will continue for another 2 or 3 days before reaching a conclusion. Note has been taken of the wording suggested by the President which has been discussed but naturally the ultimate form of words cannot now be predicted.

Both Cuban and the Argentine proposals to deal with the Spanish situation<sup>26</sup> have been discussed in the Committee on Initiatives. The consensus of the committee was that nothing could be done as matters

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<sup>25</sup> Afranio de Mello Franco, Chairman of the Brazilian delegation.

<sup>26</sup> For documents on the Spanish Civil War, see vol. I, pp. 149 ff.

now stood though the matter was held open pending possible developments during the week. It was definitely determined not to open the matter for debate at least for the time being. Since such debate would probably emphasize the differences this seems wholly desirable.

Venezuela has reminded us of our promise to support Caracas as the seat of the next conference. The division between Caracas and Bogotá appears to be almost exactly equal, Haiti and Santo Domingo [*Dominican Republic*] having the two deciding votes. For the time being they are supporting Trujillo City.

HULL

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710.H Continental Solidarity/88: Telegram

*The Chairman of the American Delegation (Hull) to the Acting Secretary of State*

LIMA, December 20, 1938—noon.  
[Received December 21—7:34 a. m.]

47. The Chileans this morning confidentially transmitted to us a proposed draft submitted by Cantilo from Chile by which he hoped to meet our views. This draft, as finally authorized, and with certain changes proposed by us, was accepted by the Argentineans. It reads as follows:

“The Governments of the American Republics.

“Declare:

“First. That they reaffirm their continental solidarity and their purpose to collaborate in the maintenance of the principles upon which it is based;

“Second. That faithful to the democratic principles inherent in their institutional regime, and to its absolute sovereignty, they reaffirm their determined will to maintain them and to defend them against foreign (*extraña*) intervention or activity that may threaten them;

“Third. And in case the peace, safety, or territorial integrity of any American Republic is thus threatened by circumstances of any nature that may impair it, they proclaim their common concern and their determination to make effective their solidarity, coordinating their respective sovereign wills by means of the procedure of consultation, established by conventions in force and by declarations of the inter-American Conference, using the measures which in each case the circumstances may make advisable. It is understood that the governments of the American Republics will act independently in their individual capacity, recognizing fully their juridical equality as sovereign states;

“Fourth. That in order to facilitate the consultations established in this and other instruments of peace, the Ministers of Foreign Affairs of the American Republics, when deemed desirable and at the initiative of any one of them, will meet in their several capitals

by rotation and without protocolary character. Each government may, under special circumstances or for special reasons, designate a representative as a substitute for its Minister of Foreign Affairs;

"Fifth. This delegation [*declaration*] shall be known as the 'Declaration of Lima'".

If you have any comment please cable at once. The decision upon this draft may depend upon the interpretation of the word "extraña" which Argentina may claim means from within or without America.

The contest between Bogotá and Caracas as to the seat of the next conference was settled today by the withdrawal of Caracas. Bogotá will presumably be named.

The resolution covering the Inter-American Commission of Women is still in committee though it seems likely to pass. A Cuban resolution on tolerance has been stiffly opposed chiefly by Rosalina Miller<sup>27</sup> though we have reason to hope that the revised proposal will be adopted.

The resolution calling on governments to attend the Indian Conference at La Paz likewise passed the Economic Committee today. A plenary session is called for tomorrow.

The subcommittee has reported recommending reference of the copyright convention to the Pan American Union for study.

HULL

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710.H Continental Solidarity/92 : Telegram

*The Acting Secretary of State to the Chairman of the American Delegation (Hull)*

WASHINGTON, December 21, 1938—3 p. m.

84. Your 47, December 20, noon.

The text quoted in your telegram under reference would seem to me to be a singularly satisfactory solution. The use of the word "extrana" in the second paragraph will in my opinion unquestionably imply extra-continental. I hope it is not premature to offer my heartiest congratulation on what would appear to be a thoroughly satisfactory ending of a protracted discussion.

I received yesterday a personal message from the Cuban Ambassador expressing his great disappointment that the Cuban resolution on tolerance was being blocked. It would seem to me that the adoption of this resolution would have a singularly happy effect in many quarters.

WELLES

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<sup>27</sup> Mrs. Rosalina Coelho Lisboa de Miller, Brazilian delegate.

710.H Continental Solidarity/93 : Telegram

*The Acting Secretary of State to the Chairman of the American Delegation (Hull)*

WASHINGTON, December 21, 1938—6 p. m.

85. Aranha has just called me on the long distance telephone from Rio in order to express his belief that the Argentine Government was not willing to agree to a formula satisfactory to Brazil and to the United States. He read to me a telegram he had received this morning from the Acting Minister for Foreign Affairs who informed Aranha that he was speaking in the name of the President of the Republic and said that Argentina would be unwilling to make any further concessions. I told Aranha that I was not familiar with the texts of all of the projects for the declaration which had been presented but that I understood from your most recent telegram on the subject that the last formula presented by Dr. Cantilo yesterday from Chile had been officially presented in the name of the Argentine Government. I understand that Aranha is telegraphing Mello Franco and inasmuch as I should like to reply to Aranha's telephone call as soon as possible and reassure him with regard to the situation—if that is possible—I should greatly appreciate it if you would find out from Mello Franco just what the most recent instructions he has received may be and let me know what reply I should make to Aranha.

Because of my unfamiliarity with all of the proposals made I am at a loss to know to what proposal Aranha specifically refers. It would seem to be clear from his telephone call that he believes the Argentine Government is not willing to go as far as Cantilo or the Argentine delegation have indicated.

WELLES

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710.H Continental Solidarity/94 : Telegram

*The Acting Secretary of State to the Chairman of the American Delegation (Hull)*

WASHINGTON, December 21, 1938—8 p. m.

87. My 84, December 21, 3 p. m. The President requested me to read the text of the declaration in Cabinet meeting this afternoon and he expressed his entire approval of the formula proposed.

WELLES

710.H Continental Solidarity/97 : Telegram

*The Chairman of the American Delegation (Hull) to the Acting Secretary of State*

LIMA, December 23, 1938—6 a. m.

[Received 8:42 a. m.]

Following telegram has been sent to the Embassy at Rio de Janeiro.<sup>28</sup>

"December 23, 3 a. m. Please call immediately on Aranha and ask him immediately to take up the following matter with President Vargas.

Agreement upon a declaration of American solidarity was reached Thursday upon a compromise proposal submitted by the Argentine Government and based partly on Brazilian, Peruvian, United States and other views. All of the delegations agreed except Argentina whose delegation was consulting its Government which was already committed to it.

Apparently without being informed of this and in a generous effort to propose a solution President Vargas and President Ortiz by telephone agreed to submit a joint formula. Naturally this would now upset the agreement reached here and there is grave doubt whether in view of the difficulty encountered by us in persuading many delegations to accept the Lima agreement on Thursday we could persuade these delegations to accept a new formula. Plainly neither President Vargas nor President Ortiz desires anything but harmony and their move was intended not to break up but to assist an agreement. Under these circumstances it is earnestly hoped that President Vargas in the same spirit of generosity which prompted him to suggest a joint formula without knowing of the agreements reached here will join in withdrawing that formula in view of the situation here. It would be much appreciated if he would communicate in that sense with Mello Franco and with President Ortiz. A similar telegram is being sent to our Embassy at Buenos Aires asking that President Ortiz take the same action. Effect of endeavor to force through a new formula may well be to break up the Conference. Should the efforts of the two Presidents become known no damage could be done either to their prestige or to the work of the Conference unless by insistence on their formula new formulas spring up seriously complicating the Conference at this late stage.

Concha has promised to send telegrams in this sense to Rio de Janeiro and Buenos Aires. Mello Franco has agreed to telegraph his Government.

Telegraph a reply to the American delegation at Lima immediately and repeat your reply to the Department. Reply must be received here before Friday noon."

HULL

<sup>28</sup> Mr. Hull also sent to the Department a copy of his telegram of the same date to the Embassy at Buenos Aires. It read, *mutatis mutandis*, the same as this telegram.



710.H Continental Solidarity/98 : Telegram

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

RIO DE JANEIRO, December 23, 1938—10 a. m.  
[Received 10:15 a. m.]

296. Following telegram to American Embassy at Lima repeated for your information :

“December 23, 10 a. m. For American delegation. Referring to your December 23, 3 a. m., Aranha said he had sent a compromise formula which had the acceptance of President Ortiz, but only as a personal contribution to the effort of finding a solution. He showed me his telegram No. 29, 5 p. m., sent yesterday to Mello Franco in which he made it clear that Mello Franco and the Brazilian delegation had full discretion in this matter because in contact with the other delegations they were in the best position to judge and make a decision.

Aranha cannot understand your statement that an agreement was reached at Lima on Thursday as his last telegram from Mello Franco, which he showed me, indicated no agreement had been reached.”

SCOTTEN

710.H Continental Solidarity/101 : Telegram

*The Chargé in Argentina (Tuck) to the Acting Secretary of State*

BUENOS AIRES, December 23, 1938—1 p. m.  
[Received 1:15 p. m.]

331. I telephoned the following to the Secretary of State at Lima this morning.

With reference to your rush telegram of December 23, 3 a. m.,<sup>29</sup> Cantilo only returns tomorrow morning. I immediately saw Alvarado, Acting Minister for Foreign Affairs, and Gache, Undersecretary for Foreign Affairs. They both gave me categoric assurances that telegraphic instructions will be sent early this afternoon to Ruiz Moreno to support the compromise proposal of American solidarity reached Thursday with a few minor changes in form and not in substance. Alvarado stated that even these suggested changes were optional and not mandatory.

As regards the joint Ortiz-Vargas telephoned formula to which you refer in your telegram December 23, 3 a. m., I was informed that this formula had been communicated to the Argentine delegation at Lima as a transactional and optional formula *only* which might be given consideration in the event that joint agreement would not be reached on the Thursday compromise proposal.

Repeated as confirmation to Lima.

TUCK

<sup>29</sup> See footnote 28, p. 86.

710.H Continental Solidarity/103 : Telegram

*The Chairman of the American Delegation (Hull) to the Acting Secretary of State*

LIMA, December 24, 1938—1 p. m.

[Received 2:55 p. m.]

60. Twenty-one countries have now signed solidarity declaration.<sup>30</sup> Text not yet released. Brazil desires to make some declaration<sup>31</sup> in a manner not yet determined clarifying Brazilian position.

I will speak at plenary this afternoon about 6:15.<sup>32</sup> Will cable text of my address for release on receipt of press association flash that I have begun speaking.

HULL

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<sup>30</sup> Declaration of the Principles of the Solidarity of America, approved December 24, 1938. Article Fifth states that "This Declaration shall be known as the 'Declaration of Lima';" see *Report of the Delegation of the United States*, p. 189.

<sup>31</sup> Remarks by the Chairman of the Delegation of Brazil, December 24, 1938, Octava Conferencia Internacional Americana, *Diario de Sesiones*, p. 1041.

<sup>32</sup> Address of the Honorable Cordell Hull at the Plenary Session, December 24, 1938, *Report of the Delegation of the United States*, p. 102.

CHACO DISPUTE BETWEEN BOLIVIA AND PARAGUAY:  
THE CHACO PEACE CONFERENCE<sup>1</sup>

[BIBLIOGRAPHICAL NOTE: The Chaco Peace Conference, *Report of the Delegation of the United States of America to the Peace Conference Held at Buenos Aires July 1, 1935–January 23, 1939* (Washington, Government Printing Office, 1940); Argentina, Ministerio de Relaciones Exteriores y Culto, *La Conferencia de Paz del Chaco 1935–1939, Compilación de Documentos* (Buenos Aires, 1939).]

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724.34119/1220 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, February 18, 1938—2 a. m.

[Received 7 a. m.]

29. From Braden.<sup>2</sup> The Brazilian delegate<sup>3</sup> and I had 40-minute talk with President-elect<sup>4</sup> this evening in substance as follows:

1. My colleague expressed regret Chaco had not been concluded under Justo,<sup>5</sup> declared firm conviction final treaty could be consummated within 3 or 4 months and hoped we could count on Ortiz' support.

2. I described coordinated hard work of Prisoners Committee prior to last accomplishment of Conference; i. e., January 21st protocolized act.<sup>6</sup> Stated Conference results since then zero and present conditions if allowed to continue would inevitably bring war but success could still be attained with (a) intelligent coordinated method of work; (b) sweat; (c) above all Argentine support and cooperation.

3. Rodrigues Alves and I both declared peace treaty could be assured definitely and quickly if retiring Argentine President would assume Conference Chairmanship.

4. Ortiz said (a) he was greatly encouraged to learn of our optimism which generally checked with his own information; (b) present Minister of Foreign Affairs<sup>7</sup> with whom both he and Justo had wide

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<sup>1</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 4–45.

<sup>2</sup> Spruille Braden, delegate of the United States to the Chaco Peace Conference.

<sup>3</sup> José de Paula Rodrigues Alves.

<sup>4</sup> Roberto M. Ortiz, inaugurated President of Argentina, February 20.

<sup>5</sup> Augustin P. Justo, retiring President of Argentina.

<sup>6</sup> *Foreign Relations*, 1936, vol. v, p. 36.

<sup>7</sup> Carlos Saavedra Lamas.

differences was out completely; (c) Minister of Public Works<sup>8</sup> will take over ad interim precisely because of his friendship with Brazilian delegate and me; (d) we can count on Ortiz and Argentine Government's whole-hearted collaboration and support; (e) internal Paraguayan politics permitting peace can be forced through if Argentina insists with Paraguay that there can be no more war and that they must make peace; (f) he counts on Brazilian and United States delegates and especially requests cooperation our respective Foreign Offices and Presidents. Above all he counts on the United States of America; (g) he wishes Justo to have one week's rest before suggesting Conference Chairmanship to him, meanwhile by telegraph he will obtain Cantilo's<sup>9</sup> approval to plan. (Also this delay desirable because of Saavedra.) He hopes to advise us definitely by the end of next week whether retiring President will accept Chairmanship; (h) Foreign Office staff now preparing report on Chaco for him and Cantilo.

5. Brazilian delegate and I assured President-elect of our Governments' and Presidents' unswerving interest repeating previous word sent him of our President's enthusiasm for Justo appointment; we emphasized vital importance of strong Argentine stand vis-à-vis Paraguay.

6. Justo is still unaware of Ortiz-Alves plans to commandeer his services but his aide believes he will accept, but in any event Alves appointment distinctly encouraging as is President-elect's interest and promise to bring pressure on Paraguay. Unfavorable factor is most of his information is inadequate having come from Saavedra or through those presented by the latter as for instance Finot<sup>10</sup> instead of Alvestegui.<sup>11</sup> [Braden.]

WEDDELL

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724.34119/1223: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, February 21, 1938—6 p. m.

[Received February 21—5:34 p. m.]

34. From Braden. This afternoon the Brazilian delegate and I had a talk with the Minister for Foreign Affairs ad interim along the same general lines described in my 29, February 18, 2 a. m.

He (1) evidenced hope Justo might accept Conference Chairmanship and that he would know definitely within week or ten days; (2) said it would be impossible for Cantilo to arrive here before April 12;

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<sup>8</sup> Manuel P. Alvarado.

<sup>9</sup> José Maria Cantilo, incoming Argentine Minister for Foreign Affairs, succeeding Carlos Saavedra Lamas.

<sup>10</sup> Enrique Finot.

<sup>11</sup> David Alvestegui, Chairman of the Bolivian delegation.

(3) agreed to recommend that Ruiz Moreno be continued as Argentine delegate and raised to rank of Ambassador; (4) displayed sincere interest in Chaco problem and promised full collaboration; (5) accepted my proposal for a concentrated drive to settle frontier question and to this end in session scheduled February 24 to set up a committee of the whole so that intensive work as outlined my despatch No. 637<sup>12</sup> may commence on March 3. [Braden.]

WEDDELL

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724.34119/1227: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, February 24, 1938—7 p. m.

[Received 7:03 p. m.]

40. From Braden. My 34, February 21, 6 p. m. Conference this afternoon approved one resolution expressing its appreciation of collaboration of Argentine delegation and ex-Chairman and another resolution emphasizing ex-President Justo's contributions to the Conference and concluding by conferring upon him the title of Honorary President. This latter resolution will be delivered in person to General Justo in Cordoba on Saturday by junior Peruvian delegate and myself and it has been indicated to me that it may open the way for his appointment and acceptance as Chairman of the Argentine delegation and therefore as Conference President.

Ortiz has spoken to ex-President regarding his assumption of Conference Chairmanship. The latter's confidential secretary informs me Justo is disposed to accept but plans to insist upon negotiations being pursued by a committee to consist of himself, Brazilian delegate and me. The ex-President was further quoted as saying that because of the vital necessity for settling the Chaco problem he was not afraid to risk his prestige but that aforesaid committee must be able to count on the strong united pressure of these three Governments with which he was convinced the final peace treaty would be accomplished at an early date.

In view of our maneuvers to get Justo acceptance, plus the absence from the city over carnival of Foreign Minister ad interim and other delegates, I accepted assurances of all my colleagues that the intensive Conference labors demanded by me should commence March 7, either by Conference going into permanent session as a committee of the whole or as per Justo plans referred to in preceding paragraph. [Braden.]

WEDDELL

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<sup>12</sup> February 15, not printed.

724.34119/1230 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, February 27, 1938—11 a. m.

[Received 1 p. m.]

42. From Braden. My 41, February 25, 6 p. m.<sup>13</sup> General Justo was greatly moved by designation as Honorary Chairman, displayed real interest in Chaco and requested us to call on him for assistance at all times. At his suggestion it was agreed that on his return to Buenos Aires at the end of the week he would go thoroughly into fundamental question with me.

The junior Peruvian delegate, ex-President's confidential secretary and I are satisfied we convinced him a final solution was possible at an early date. Therefore it is now up to Ortiz to make him accept active Chairmanship of Conference. I am optimistic that we may get his services. Even from the viewpoint of internal politics it would be wise move for him, on the other hand if Paraguayan delegation got wind of plan sensing that it would end their stalling tactics they would try to discourage him. [Braden.]

WEDDELL

724.34119/1249 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 8, 1938—11 p. m.

[Received 11:35 p. m.]

49. From Braden. Committee under my chairmanship appointed this afternoon to pursue intensive territorial boundary negotiations. In my opinion this means that for the first time in over 2 years an intelligent incisive effort can now be made to reach a final solution and very shortly we should know whether or not it is possible of accomplishment at this time.

Mediatory delegates in today's session gave what should have been an ample and satisfactory answer to Paraguayan delegation regarding their protest. Conference explanation will be confirmed in note to them accompanied by minutes of today's discussion. This should close the obstruction in which case we would be blocked under any circumstances. The Paraguayan delegation taking the role of injured innocence pretended they did not understand our explanation but concluded by saying Conference note when received would be submitted to their Government for decision as to what if anything else was to be done respecting this incident.

<sup>13</sup>Not printed.

Justo today told Brazilian delegate he was reluctant to accept active presidency because he hoped to leave for Europe within a month but that in the meantime he would attend Conference meetings and give every assistance it requested. This would be helpful but I have expressed my firm conviction to his advisers that under his Chairmanship treaty terms would be agreed upon within 30 days. The Argentine President will put strong pressure on him tomorrow and Rodrigues Alves and I are scheduled to see him again Thursday. His confidential secretary believes he will accept. [Braden.]

WEDDELL

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724.34119/1255 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 11, 1938—7 p. m.

[Received 8:40 p. m.]

55. From Braden. At committee meeting this morning attended by Argentine Minister for Foreign Affairs ad interim, Paraguayan delegation as a starting point, presented the following formula for a permanent frontier: beginning immediately south of D'Orbigny at center of Pilcomayo River where Argentine-Bolivian boundary begins almost under *thalweg* of river to approximately Palo Marcado from there following easternmost line of separation to point adjacent to Huirapitindi (east of Santa Fe, see Neutral Military Commission map) thence north to a geographical point on the Parapiti River thence to northern line of separation and following it to Brazilian border near San Juan.

We told Zubizarreta<sup>14</sup> his proposal was utterly unacceptable and could not even be mentioned to Bolivians. Pursuant to his request this afternoon committee made following counter offer stating that we would undertake to press for its acceptance by Bolivia: starting at Linares on Pilcomayo River north to 27 Noviembre, northwest to Fort Ingavi, east by south to mouth of River Otuquis in Bay of Bahia Negra. On Wednesday afternoon the Bolivian delegate suggested to me approximately the same line except that he also asked for the town of Bahia Negra, as a sovereign port, to which I replied, as I always have, that a sovereign port was out of the question.

At committee meeting this afternoon Paraguayan delegation at first indignantly rejected our formula maintaining that only possible criterion for a settlement was thesis of mutual territorial compensations whereas we held only norm was sufficient withdrawal to guarantee mutual security in perpetuity. After 3-hour discussion it was left that they would present Tuesday morning another formula including

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<sup>14</sup> Geronimo Zubizarreta, Chairman of the Paraguayan delegation.

greater withdrawing which they undoubtedly will combine with excessive territorial compensation in the north. Both my colleagues and I are favorably impressed that at last the Paraguayans have begun to negotiate in an honest endeavor to reach a final solution and we are hopeful that by pursuing method followed by the Prisoners Committee of trading back and forth we may now advance.

I am calling committee meeting of Ruiz Moreno and Rodrigues Alves to begin negotiations with Bolivian delegate Monday morning. [Braden.]

WEDDELL

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724.34119/1256 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 14, 1938—4 p. m.

[Received 6:17 p. m.]

56. From Braden. My 55, March 11, 7 p. m. Committee met this morning in Chilean Embassy with Chilean and Bolivian delegates also present. Mediators argued Bolivia must become reconciled to free instead of sovereign port and that fundamental basis of any treaty must be frontier insuring mutual security against renewal of war.

Bolivian delegate reiterated as official position sovereign port and prewar territorial status in Chaco but said he was willing to discuss boundary movement to the west in proportion to degree of free port facilities accorded, always on the understanding that the mediators assume responsibility during trip to La Paz of convincing that Government of necessity for abandoning sovereign port. Since we are definitely assured of Justo's strong intervention at the critical moment I have thought wise to drop temporarily pressure for his assuming active presidency and rather to inspire my colleagues with the determination to reach an agreement before Cantilo arrival April 11. This appeals particularly to Alvarado who would be delighted to accomplish during his short tenure of office what S. Lamas failed to do in over 2 years. Also more active cooperation of Chilean delegate would be thus secured since he would be pleased to conclude matters before going vacation April 9. [Braden.]

WEDDELL

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724.34119/1257 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 15, 1938—7 p. m.

[Received 9:20 p. m.]

57. From Braden. My 55, March 11, 7:00 p. m. Paraguayan delegation meeting with Argentine Minister for Foreign Affairs ad in-



terim, Ruiz Moreno, Barreda,<sup>15</sup> and me this morning modified their last proposal by additional withdrawal to longitude 63 and instead of following northern line of separation to Brazilian frontier to cut south along Otuquis River, Paraguay to retain triangle ceded by Brazil to Bolivia.

Paraguayans offer in a separate treaty limited free port facilities such as Bolivia has in Mollendo in exchange for economic concessions by Bolivia, whereas the latter wants free port as part of peace treaty and on such conditions as enjoyed by Peru in Africa.

Markedly less reasonable attitude today of Paraguayan delegation in committee opinion results from interference by Saavedra Lamas. Zubizarreta admitted former Minister's satellite, Carillo, described to them day before yesterday the Bolivian anxiety for peace treaty even on basis of this morning's proposal.

Paraguayan delegation has asked for appointment with President of the Argentine Republic "to discuss their mission in the Conference" before Zubizarreta leaves for Asunción next week. This is perhaps also due to Lamas encouraging Paraguayan stalling by assuring them that he will be reappointed Chairman Argentine delegation on arrival Cantilo.

Alvarado thoroughly alive to entire situation will stop Carillo activities. He has arranged for President of the Argentine Republic to see Paraguayans 6:00 p. m. tomorrow and for him tell them he has instructed Argentine delegation: (1) strictly to carry out terms of protocol that is to say to get direct agreement and failing that the arbitral compromise; (2) press for immediate conclusion since prestige of mediatory countries is already seriously prejudiced by protraction; (3) discourage Zubizarreta's trip.

On Thursday morning committee of the whole will meet with Alvarado to determine Conference course in the light of Paraguayan interview with the President of the Argentine Republic. Consensus of opinion mediators this morning was that if ex-belligerent viewpoints on frontier cannot be reconciled within one or two additional committee meetings taking full advantage of the threat most distasteful to Paraguay of arbitral compromise and Conference closure the latter should propose a boundary approximately as follows: Guachalla, 27 de Noviembre, Ravelo, mouth of Otuquis River in Bahia Negra Bay, following which Argentine and other mediatory powers must exercise every possible pressure for acceptance of this line.

Chilean Government disturbed because that delegate was not specially included in the committee but I expect feelings will be composed by talk I had today with the First Secretary of Embassy here. [Braden.]

WEDDELL

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<sup>15</sup> Felipe Barreda Laos, Chairman of the Peruvian delegation.

724.34119/1262 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 17, 1938—6 p. m.

[Received 9 p. m.]

58. From Braden. My 57, March 15, 7 p. m. President of the Argentine Republic in interview with Zubizarreta with map in hand demanded that a compromise frontier be agreed on as soon as possible and requested him to cancel his trip.

Rivarola<sup>16</sup> has been invited but probably will not accept to be Paraguayan Minister for Foreign Affairs, leaves for Asunción Saturday. He admitted to his close friend Alvarado yesterday that Paraguay in the face of united mediatory pressure would have to cede but lamented Zubizarreta chairmanship of delegation as major obstacle since other two delegates lack authority and force.

Committee today agreed Alvarado should dine privately with Rivarola tonight and point out dangers of continued intransigence, also if possible arranging for Rivarola to telephone Asunción authorities to instruct Paraguayan delegation to adopt more conciliatory attitude. Contingent upon results tonight Alvarado may follow up on this conversation by seeing Rivarola and Zubizarreta jointly tomorrow. Also Justo will ask Rivarola tomorrow afternoon to give entire support to Conference.

Committee today with all delegates except Uruguayan present felt that in addition to formula described last paragraph my 57, Conference should present to Paraguayan delegation two more alternatives: (a) Guachalla geographical point on Parapiti, Ravelo, Paraguay River immediately south of Bahia Negra, that town being given to Bolivia; (b) a formula delimiting a zone to be submitted to arbitration which I shall telegraph as soon as agreed upon by mediators. We have things rolling now and must press on, if necessary by threatening to end direct negotiations but as pointed out by the Brazilian delegate this morning not actually do so until Cantilo assumes office. I have held that as final step indirect negotiations trips to ex-belligerent nations shall be started before end of month. The Department will notice modification of Conference attitude from that reported penultimate paragraph my 57.

Alvarado is telegraphing urgently Ambassador today that both his and Manernirios' [*Manini Rios*]<sup>17</sup> presence in Conference imperative at this critical time in negotiations.

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<sup>16</sup> Vicente Rivarola, Paraguayan delegate.

<sup>17</sup> Pedro Manini Rios, Uruguayan delegate.

Next committee meeting called for Saturday morning when alternative formulae will be discussed and perhaps presented to Paraguayan delegation. [Braden.]

WEDDELL

724.34119/1265 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 19, 1938—5 p. m.

[Received 6:51 p. m.]

60. From Braden. My 58, March 17, 6 p. m. Rivarola sails today carrying letter from Justo to President of Paraguay urging acceptance of Conference proposals. He promised to quote Alvarado to Asunción authorities to the effect that Argentina is at one with other mediators in requiring full and early settlement based on proposal described below.

Monday morning committee with Alvarado will present Paraguayan delegation three formulae stating that Conference has not discussed them with Bolivia but will undertake to use every influence to obtain that country's acceptance of any one approved by Paraguay and that Conference after careful deliberation sees no way to a successful [settlement?] along other lines:

1. As previously set forth before last paragraph my 57, March 15, 7 p. m., but starting from Ballivian and ending mouth of Otuquis in Paraguay River.

2. As previously set forth fourth paragraph my 58, March 17, 6 p. m. but starting from Ballivian and ending at Paraguay River half way between Puerto Caballo and Bahia Negra leaving former to Bolivia and latter to Paraguay.

3. Arbitration by the World Court or some other entity as parties agree upon, of a zone bounded by *thalweg* of the Pilcomayo longitude 63 to intersection with Paraguayan line of separation along that line to Huirapitindi thence north to geographical point on Parapiti, Ravelo, mouth of Otuquis in the Paraguay River thence following *thalweg* Paraguayan River to a point halfway between Puerto Caballo and Bahia Negra town thence Ingavi and Linares, the territory north and west of this zone being adjudicated to Bolivia, south and east to Paraguay. [Braden.]

WEDDELL

724.34119/1266 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 21, 1938—8 p. m.

[Received 9:12 p. m.]

61. From Braden. My 60, March 18 [19], 5 p. m. I find that at the last moment Rivarola dissuaded Justo from sending letter on the

score that latter's recommendation would not be accepted thus injuring his personal prestige.

In a long and heated meeting this morning, despite the arguments but [*by?*] all mediators including a restatement by me along the lines of legal adviser's opinion of March 2 that intermediary line could not be accepted as a basis for territorial compensation, Zubizarreta categorically outlined the Government's policy as follows:

1. Paraguay would never grant Bolivia any sovereign port even Puerto Caballo. This disposed of proposals (2) and (3).

2. She would accept terminal point of boundary at mouth of Otquis and Paraguay River subject to adequate territorial compensation north of intermediary line for the withdrawal to west and south of it.

This would at least leave Bolivia triangle on Paraguay River ceded by Brazil.

3. Paraguay would accept territorial compensation only and was totally uninterested in economic or monetary ones.

4. He and his delegation represented one hundred percent opinion of Paraguayan Government and people and mediators had best realize that fact.

On Thursday morning he will present committee with another proposal. This offer resulted in large degree from strong stand taken by Alvarado who warned Zubizarreta that Argentina stood shoulder to shoulder with the other mediators, that we are in final stages of negotiations only one or two drops remaining to be squeezed from the lemon. That he personally as a newcomer was deeply impressed by the mediators' patience, knowledge, and integrity and with the "spirit of belligerency" towards the Conference of Zubizarreta and his colleagues.

This afternoon in long conversation with Estigarribia<sup>18</sup> and Infran the former completely reversed previous reasonable attitude (my despatch No. 633, February 2 [7])<sup>19</sup> and now equals Zubizarreta's intransigence.

First paragraph my telegram No. 58, March 17, 6 p. m. Zubizarreta advised Ortiz that his trip could not be canceled. Nevertheless, he has evidently postponed it and has not referred to it again.

Alvarado informed Brazilian delegate that Zubizarreta during the last few days has been in consultation with Saavedra Lamas.

Pending receipt of new formula Thursday my Brazilian and Peruvian colleagues and I will work on junior Paraguayan delegate but it is evident that the one hope of success is the degree to which Argentina can reduce Paraguayan intransigence. [Braden.]

WEDDELL

<sup>18</sup> Gen. José Félix Estigarribia, Paraguayan delegate.

<sup>19</sup> Not printed.

724.34119/1269 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 24, 1938—7 p. m.

[Received 9:25 p. m.]

66. From Braden. My 61, March 21, 8 p. m. Paraguayan delegation this morning submitted two following proposals. (See Neutral Military Commission map.) (1) Cururenda opposite D'Orbigny along Pilcomayo to Ibibobo thence along hills same name approximate longitude 62-55 and Mandeyapqua hills (junior Paraguayan delegate says Bolivia will hold the heights, in both cases boundary to lie along eastern slopes) thence north to geographical point on Parapiti thence to Ravelo and along northernmost line of separation to Otuquis swamps down it to the triangle which is left to Paraguay.

2. Starting at D'Orbigny north to Parapiti follow it to Matico thence to intersection of longitude 60 with San Miguel River following this and later Iquique to Otuquis swamps down it to triangle which is left to Paraguay. Paraguayan delegation stated this formula gives maximum withdrawal which could be made in the west.

The Brazilian delegate strongly protested both proposals leaving triangle to Paraguay as totally unacceptable and said they would "seriously prejudice friendly relations" between Brazil and Paraguay. Thereupon Zubizarreta replied as follows: They would not make an issue of the triangle.

Junior Paraguayan delegate day before yesterday intimated withdrawal to a line running north from Guachalla might possibly result from negotiations and particularly urged that the Conference keep negotiations alive, be patient, and not reject proposals summarily.

Bolivian delegate yesterday stated that Bolivian Minister at Washington still reports the Department of State holds Bolivia should receive sovereign port. I replied the position of the United States was as stated previously by me that we would be glad for Bolivia to get it, we had already and would continue to exert utmost efforts to that end but repeated again I consider it unobtainable.

Zubizarreta plans to go to Asunción April 2 today urged delegates go there before him. I approved trips as soon as possible providing at least one Paraguayan delegate is in Asunción simultaneously with the mediators. Argentine Minister for Foreign Affairs ad interim urged that I go to La Paz next week. I agree time is come for trip but insisted I be accompanied by at least one and preferably two other delegates since we will represent the Conference rather than individual countries. This offers some difficulty since Rodrigues Alves and Ruiz Moreno fear altitude, Barreda does not wish to be disturbed and

opposes Cisneros<sup>20</sup> going, Santos Munoz<sup>21</sup> would be a handicap and we have no Uruguayan representative. I respectfully suggest that you may wish to bring to the attention of the Peruvian Government the advisability of Cisneros accompanying me.

Committee and Alvarado meet with Bolivian delegate tomorrow morning. [Braden.]

WEDDELL

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724.34119/1270 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 25, 1938—9 p. m.

[Received 9:40 p. m.]

69. From Braden. My 66, March 24, 7 p. m. Net of all day meeting with Bolivian delegate was his statement

(1) Frontier touching Parapiti impossible under any circumstances  
 (2) Would accept Linares, 27 of November, Ravelo, Port of Bahia Negra

(3) Will not consider frontier along meridian through D'Orbigny but a line considerably east of Ibibobo hills, nevertheless, he gave impression he might accept frontier at foot of eastern rise of those hills and would later abandon sovereign port if treaty provides for Paraguay to grant full free port privileges at a subsequent date.

Great confusion exists as to location exactly of Ibibobo hills. Can the Department help in this respect?

According to the Bolivian delegate, Elio,<sup>22</sup> in attempt to regain political prestige and to justify his signature of protocol, has made headway in convincing Bolivian Government that best solution is World Court arbitration if necessary through unilateral appeal. Alvestegui who opposed the protocol is convinced that only alternative to direct agreement is eventual war. If this difference of opinion assumes major proportions Alvestegui may resign. The Bolivian proposal today reflects the fact, as the delegate admitted to me, that he cannot afford to be more liberal since Elio is working against him from behind. Alvarado agrees absolutely with me that after a few more meetings relatively little further advance will be possible here and trips should be made; preferably going to La Paz first; in view of the above. Other delegations oppose them alleging that there must be first an arrangement in the positions of the ex-belligerent delegations; and we should await arrival and approval of Cantilo.

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<sup>20</sup> Luis Fernán Cisneros, Peruvian delegate.

<sup>21</sup> Pablo Santos Muños, Argentine delegate.

<sup>22</sup> Tomás Manuel Elio, ex-Bolivian Minister for Foreign Affairs and former Chairman of the Bolivian delegation.

I feel the only means to get any agreement is directly with the respective governments since delegations will fear to assume responsibility for concessions and Cantilo may lack Alvarado's grasp of the situation and drive.

Apparently Alvarado is keeping President of the Argentine Republic fully informed of daily developments. The latter has received an encouraging letter from President of Bolivia. Based on it, Alvarado believes Bolivia can be influenced to accept an otherwise unsatisfactory peace treaty if Argentina will definitely commit herself to the construction of Yacuiba-Santa Cruz railroad and he will support delegates' negotiations in La Paz by making such a commitment contingent upon success of our discussions there.

Alvarado tells me he is sending Argentine Minister to Paraguay back to Asunción with instructions to put pressure on the Government there. [Braden.]

WEDDELL

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724.34119/1270 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, March 26, 1938—4 p. m.

38. For Braden. Your 69, March 25, 9 p. m. Mapa General de la Republica de Bolivia (1934) shows a town called Ibibobo on the east bank of the Pilcomayo approximate latitude  $21^{\circ}37''$  south and longitude  $62^{\circ}55''$  west. Argentine military maps may be helpful if Conference has access to them.

HULL

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724.34119/1272 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 28, 1938—5 p. m.

[Received 9:55 p. m.]

72. From Braden. My 69, March 25, 8 [9] p. m. Unyielding attitude of Bolivian delegate on Friday, which he confirmed on Saturday, was due, in addition to Elio activities, to counsel given him by the Brazilian delegate that a display of intransigence now would force Argentina to bring greater pressure on Paraguay. I had advised the Brazilian delegate against giving such advice since we are receiving whole-hearted co-operation of President of the Argentine Republic and Minister for Foreign Affairs ad interim. Yesterday Brazilian delegate promised to reverse his advice to Bolivian delegate.

Rodriguez Alves and the rest of us are pretty well satisfied that in final analysis Bolivian delegate will accept frontier starting at some point between D'Orbigny and Ballivian; thence along meridian at foot of Ibibobo hills to approximately intermediary line; thence to Ravelo; thence to mouth of Otuquis. It will be noted therefore that there are really only three principal neuralgic points to be settled: (1) at what point frontier should start on Pilcomayo River between D'Orbigny and Ballivian; (2) whether or not it touches the Parapiti; (3) whether it terminates at mouth of Otuquis or give Bolivia Puerto Caballo.

At committee meeting this morning in view of strong stand taken by Alvarado and me, all delegates except Peruvian agreed trips should be started this week. The latter finally agreed but said his Government probably would oppose Cisneros or himself visiting La Paz since if a Peruvian were to put pressure on Bolivia it might prejudice relations between those two neighbors. It was therefore decided that I should go to La Paz if possible accompanied by an Uruguayan delegate, preferably Manini Rios, and Chilean and Peruvian to Asunción. By going to both ex-belligerent capitals simultaneously we remove danger of Paraguayans claiming we came to them with a Bolivian formula (which they might allege if visit were made to La Paz first). Both ex-belligerent delegations have expressed their hearty approval of trips.

Groups going to Asunción would endeavor to obtain line as far as possible to east and south and if it is possible Puerto Caballo in exchange for cash. Delegates in La Paz would aim for frontier as far as possible to west and north. In view of positions of ex-belligerent delegations developed during last fortnight, it seems reasonable to expect that intensive efforts on these trips should at least bring parties sufficiently close together so that with full pressure of all the mediatory governments, the ex-belligerents would not dare face the consequences of refusing the final proposal of the elevation for frontier.

Alvarado declared he informs President of the Argentine Republic of each day's developments, the latter is extremely anxious to get final treaty, desires Conference to push on actively not awaiting Cantilo arrival (in fact the latter approves of all steps taken) so that when he reaches Buenos Aires on April 15, either final treaty will be ready for signature or situation so clearly defined that course for mediators to pursue can be readily determined and heartily approves the stand regarding triangle taken by Brazilian delegate reported in my telegram 66, March 24, 7 p. m.

Alvarado further declared that if Paraguay continues stubborn, President of the Argentine Republic desires six neutral countries as a unit to put utmost pressure on that Government and to warn it that



nonacceptance of final Conference proposal would be taken as "an almost unfriendly act". Brazilian delegate pledged his country's strongest support to this policy. Argentine delegates also propose warning Paraguayans that in the event of renewed hostilities Argentina and Uruguay will refuse aid and will prevent all munition shipment including transfer to Paraguayan vessels in their respective harbors.

Justo's confidential secretary told junior Paraguayan delegate Saturday night that the General is fed up with Paraguayan unreasonableness and it is high time to stop it and accept very satisfactory settlement now possible.

Brazilian Minister for Foreign Affairs requested Rodriguez Alves' presence in Rio during Cantilo stay there but he cannot leave Buenos Aires because of wife's illness. Yesterday he read to me two despatches urging Brazilian Minister for Foreign Affairs to convince Argentine Minister for Foreign Affairs now is time to strike, that not getting direct agreement will mean failure of Conference, of arbitral and legal processes on this continent and of American peace system since ultimate alternative to direct agreement is another war.

In order that I may be able to leave on short notice for Bolivia, returning here if necessary to go to Asunción, it is respectfully suggested that the Department authorize the expenditure of \$350 for travel by plane and that the Legation at La Paz be requested to give me such clerical assistance as I may require.

In response urgent request for their presence, Uruguayan delegates telephoned they could be here probably Wednesday morning. Hence final decision on trips will have to wait until then. I would appreciate receiving before that time the Department's comments on the position I have taken during recent negotiations.

Has the Department made any suggestion to Peru with regard to having Cisneros accompany me to La Paz. [Braden.]

WEDDELL

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724.34119/1272 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, March 30, 1938—3 p. m.

41. For Braden. Your 72, March 28, 5 p. m. The Department approves of the position you have taken during recent negotiations. Your contemplated trip to La Paz is authorized, but only on the condition that you are accompanied by one of the other mediatory delegates. The Department could not agree to having the delegate of this country visit La Paz alone. The question of having the Peruvian

delegate accompany you to La Paz has been discussed informally with the Peruvian Ambassador here.

The Legation at La Paz has been informed of your contemplated visit.

Airplane travel from Buenos Aires, Argentina, to La Paz, Bolivia, and return authorized. Per diem of \$6 and travel expenses authorized in not exceeding the sum of \$350, chargeable to "Authorization No. 59, 1938".

HULL

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724.34119/1276: Telegram

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

WASHINGTON, March 30, 1938—7 p. m.

45. Personal for the Ambassador from the Under Secretary. Please see Aranha<sup>23</sup> as soon as possible and present to him a personal message from me along the lines set forth in the following paragraphs:

Braden telephoned to the Department today from Buenos Aires to discuss the Chaco negotiations, to say that, in his opinion, there is a possibility of bringing about a definitive settlement if an energetic and coordinated effort can now be made. It seems desirable for the mediatory delegates now to make their long deferred visits to La Paz and Asunción. At a meeting this morning of the mediatory delegates it was agreed, with the Brazilian delegate dissenting, that the delegates of Argentina, Peru and Chile will visit Asunción, while the delegates of Brazil, Uruguay and the United States go to La Paz. Rodriguez Alves dissented for personal and political reasons, to making the trip to La Paz at the present time. On the personal side, he is reluctant to leave his sick wife. On the political side, he appears to prefer that rapid progress on the Chaco be deferred until after Cantilo's return. Rodriguez Alves expects to be appointed Ambassador to Buenos Aires and would prefer to bring the Chaco matter to a conclusion while Cantilo is there since this would probably help to put his relations with Cantilo on a firm basis. It is understood that Rodriguez Alves is telegraphing Aranha recommending against Brazil participating in the visit to La Paz.

Braden expresses the opinion, in which I concur, that it would be much more effective if a representative of Brazil were to accompany the delegates of the United States and Uruguay on the visit to La Paz, and suggests that Luz Pinto, the second Brazilian delegate at the Conference, who has not been in Buenos Aires for several months and is now in Brazil, might be designated to go to La Paz.

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<sup>23</sup> Oswaldo Aranha, Brazilian Minister for Foreign Affairs.

Please inform Aranha of my belief that these visits may well be the turning point in the peace efforts. If they succeed, the way to an early definitive settlement of the territorial problem seems open. If they fail, the possibility of such a settlement appears remote. You may say that it is my hope that Aranha will see the situation in this same light and will, if possible, designate Luz Pinto to accompany Braden and the Uruguayan delegate to La Paz. Inasmuch as the delegation to La Paz is leaving Buenos Aires on Wednesday next, the necessity for rapid action is obvious.

Please telegraph the results of your interview as soon as possible and repeat the message to Braden at Buenos Aires. [Welles.]

HULL

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724.34119/1281 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, April 1, 1938—5 p. m.  
[Received 6:09 p. m.]

81. From Braden. Alvarado again assured committee this morning that Justo's full influence [would be brought?] to bear on Paraguay at the appropriate moment. President of the Argentine Republic received mediators this afternoon and declared his hearty approval of the intensive labors of the Conference during the last few weeks, his conviction an early peace treaty is to be expected, that we can count on his Government's unreserved collaboration and solidarity and he desired us to call on his aid whenever needed.

Fifth paragraph of my 69, March 25, 9 p. m., Alvarado authorized delegates going to La Paz to say that providing peace is made Argentine will undertake with Bolivia and Paraguay the canalization of Pilcomayo as far as D'Orbigny so Bolivia can have a port there.

On the day delegates arrive in ex-belligerent capitals Argentine Minister for Foreign Affairs ad interim will publish telegrams calling on Bolivia and Paraguay to come to terms. At my suggestion his telegrams will refer to the mandate put on this Conference by all America at the Maintenance of Peace Conference in resolution 64.<sup>24</sup>

Brazilian Minister for Foreign Affairs expects to arrange for Riart, now Paraguayan Minister in Rio de Janeiro, to meet and collaborate with Conference committee in Asunción. He has shown himself to be more reasonable than most Paraguayans. [Braden.]

WEDELL

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<sup>24</sup> "LXIV. Vote of Commendation to the Mediatory Nations in the Chaco Conflict, and Appeal to Bolivia and Paraguay" (approved December 23, 1936), *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936* (Washington, Government Printing Office, 1937), p. 255.

724.34119/1284: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

Buenos Aires, April 7, 1938—11 a. m.  
[Received April 7—10:50 a. m.]

85. Braden left for La Paz yesterday by train accompanied by Uruguayan and Brazilian representatives. They expect to arrive there on Saturday.

WEDDELL

724.34119/1288: Telegram

*The Minister in Bolivia (Caldwell) to the Secretary of State*

LA PAZ, April 11, 1938—4 p. m.  
[Received 7:30 p. m.]

12. [From Braden.] The following telegram has been sent to Buenos Aires for Haden:<sup>28</sup>

Yesterday and today we have had several informal conversations with various individuals either influential or who could give information. In general the reaction was that Bolivia was favorably disposed to a settlement even though she does not obtain a sovereign port.

First official discussion with Bolivian Minister for Foreign Affairs this morning. Meeting with President this afternoon and with entire Military Junta tomorrow morning.

In résumé we made the following statement to the Bolivian Minister for Foreign Affairs:

(1) Settlement must be made now for several reasons which we enumerated.

(2) Nothing further could be gained by trading vis-à-vis Paraguay: Instead Bolivia demonstrating complete confidence in the mediators must give us a frontier which in the last analysis they would accept and which the Conference with all its authority plus the full weight of six mediatory powers acting as a unit would exercise maximum pressure on Paraguay to accept.

(3) Final treaty necessarily unsatisfactory to both parties. Must give complete security against future war.

(4) Even granting that Bolivia could obtain unilaterally a favorable decision from the World Court, practically it would mean nothing but that Paraguay would have to be ejected from present positions by force of arms.

(5) Therefore Bolivia must choose between (a) security and permanent peace retaining all of the Chaco she can usefully employ and (b), insecurity and probable war.

(6) Bolivia to authorize mediators to accept if necessary approximately the following frontier: Meridian along eastern foot of Ibibobo

<sup>28</sup> Allen Haden, secretary of the delegation of the United States.

hills from the Pilcomayo to Bolivian line of withdrawal, thence to Ravelo thence along said line to Otuquis thence to the mouth of Otuquis. Mediators will endeavor to improve upon this line.

(7) We outlined treaty terms including free port privileges and the great value of moral guarantee.

(8) We emphasized value of canalization of Pilcomayo River and outlet for Bolivia via Puerto Suarez.

The Bolivian Minister for Foreign Affairs' position was that our proposed frontier might have been considered had it not been for the June 12 protocol,<sup>27</sup> but since it meant the loss of practically all the Chaco neither the Government nor the people could ever accept it, and therefore he insisted as Bolivia's maximum concession Alvestegui's offer of March 25.<sup>28</sup> He admitted, however, some westward withdrawal from this latter line might be possible if given Port of Bahia Negra. He categorically rejected any suggestion of even a geographical point on the Parapiti. Please request Argentine Minister for Foreign Affairs to transmit such of the foregoing as he deems advisable to Barreda,<sup>29</sup> at the same time warning the latter that low price of tin and disastrous economic situation in Bolivia makes any monetary compensation most difficult. Also we would appreciate early advices of developments in Asunción. Braden.

CALDWELL

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724.34119/1297: Telegram

*The Minister in Bolivia (Caldwell) to the Secretary of State*

LA PAZ, April 12, 1938—noon.  
[Received April 13—2:10 a. m.]

14. [From Braden.] The following telegram has been sent to Buenos Aires for Haden:

Have advised every one come what may, we leave Friday as must meet our colleagues from Asunción in Buenos Aires Monday.

Have interviewed practically every one having any substantial influence on Chaco problem. While the mass of population only desires peace those in control are divided into two groups:

(1) As represented by the President of Bolivia who want peace and probably will accept a line approximating meridian of D'Orbigny but feel must have Bahia Negra in order to justify relinquishing practically all of Chaco.

(2) Group headed by Minister of War uninterested in any settlement confident Bolivia with greater economic and numerical strength

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<sup>27</sup> *Foreign Relations*, 1935, vol. iv, p. 73.

<sup>28</sup> See telegram No. 69, March 25, 9 p. m., from the Ambassador in Argentina, p. 100.

<sup>29</sup> Felipe Barreda Laos, Chairman of the Peruvian delegation.

having learned lessons of last war can and should look only to a war of revenge.

In two long sessions today with Junta (President absent) we defended our proposal. Junta with the President will consider it tomorrow morning and give us answer at afternoon meeting.

Please cable Ruiz Moreno we will answer regarding Puerto Caballo after tomorrow's meeting but Bolivians still insist on at least Puerto Pacheco. Braden.

CALDWELL

724.34119/1300 : Telegram

*The Minister in Bolivia (Caldwell) to the Secretary of State*

LA PAZ, April 13, 1938—5 p. m.  
[Received 5:45 p. m.]

16. [From Braden.] The following telegram has been sent to Buenos Aires for Haden.

Before decoding telegraph following *rush* to colleagues in Asunción:

The militant group prevailed in Junta today over the President and Minister for Foreign Affairs with the result that that body categorically rejected our proposal or any minor alteration thereof declaring it to be unjust and unreasonable. Instead they propose Linares to Ingavi to Puerto Pacheco with no payment but the Bolivian Minister for Foreign Affairs declares that if the Conference will offer Guachalla, 27 of November, Ingavi, and Puerto Pacheco plus 200,000 pounds payment by Bolivia to Paraguay he will vigorously defend that offer with the support of the President and hope to succeed and would resign his post if the Junta did not approve of it. Under no circumstances will Bolivia give money for Puerto Caballo.

We have declared that we know their Linares proposal to be totally unacceptable; nevertheless we are transmitting it together with the above unofficial suggestions of the Minister for Foreign Affairs but we will leave for Buenos Aires on Friday's train. Braden.

CALDWELL

724.34119/1302 : Telegram

*The Minister in Bolivia (Caldwell) to the Secretary of State*

LA PAZ, April 14, 1938—noon.  
[Received 1:30 p. m.]

17. [From Braden.] The following telegram has been sent to Buenos Aires:

For Haden. My April 13, 5 p. m. Please call to the attention of the Argentine Minister for Foreign Affairs ad interim that unofficial proposal by the Bolivian Minister for Foreign Affairs excepting for inclusion of Puerto Pacheco exactly coincides with the line I showed Alvarado on March 9th and he then agreed that the mediatory powers should bring every possible pressure to bear on Paraguay for its acceptance and should publicly denounce that country if it refused. I personally assured the Argentine Minister of Foreign Affairs ad interim that this proposal can be put through here; therefore I respectfully urge that colleagues in Asunción make a determined effort to obtain its acceptance arguing that it is the final and very best proposal which is expected from Bolivia.

*La Noche* a leading newspaper yesterday devoted entire front page and portion of succeeding pages to a violent denunciation of the Conference committee here and of the Conference itself as "Paraguay's lawyers who flagrantly violate terms of protocol" and declares "it is impossible to negotiate a permanent peace with present positions." The President of Bolivia and the Bolivian Minister for Foreign Affairs expressed their regrets to us for this outburst but this article and a public letter from the ex-belligerent legion declaring that they "will take up their arms again" exemplify increasing spirit of belligerency and revenge and emphasize urgency for an early settlement.

The following was not sent to Buenos Aires: I am not concerned by *La Noche* article but feel it should be helpful in several ways. Braden.

CALDWELL

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724.34119/1307 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, April 15, 1938—11 a. m.

[Received 1:20 p. m.]

91. From Haden. Referring to my telegram No. 72, March 28, 5 p. m. Conference committees arrived on Monday. State of negotiations may be résuméed as follows:

(1) Bolivia rejected line (paragraph 2 telegram referred to) proposed by delegates together with any idea of Paraguay touching Parapiti; will pay only to get Puerta Pacheco; wanted line of Linares, Ingavi, Puerto Pacheco which is obviously impossible. As a personal or unofficial suggestion Bolivian Minister for Foreign Affairs asked that the Conference propose Guachalla, 27 of November, Ingavi, Puerto Pacheco and an indemnity payable to Paraguay of 200,000 pounds. His position is thus same as the American and Brazilian delegates except for eastern terminus. Mr. Braden telegraphs he is convinced that line can be put through in Bolivia. See comments paragraph 9 despatch No. 657 March 11.<sup>30</sup>

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<sup>30</sup> Not printed.

(2) Paraguay rejected line (telegram No. 72) proposed and any idea of a port for Bolivia. However Argentine delegate reports the President of Paraguay said his delegation will present to the Conference a new formula for settlement; he added that should it not be accepted the time will then have come to agree on the arbitral compromise. Whether this intention is bona fide remains to be seen; so far Paraguay has wanted nothing to do with arbitration.

The Brazilian delegate informs me that Cabinet changes in Paraguay are impending, Zubizarreta being slated for Foreign Affairs, ex-President Ayala to replace him as chairman of delegation.

Conference meets Monday afternoon. [Haden.]

WEDDELL

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724.34119/1313 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

Buenos Aires, April 19, 1938—3 p. m.

[Received 4:43 p. m.]

93. From Braden. My 91, April 15, 11 a. m. Delegates returned from Asunción state the Paraguayan Government agrees withdrawal must be made in the west and will under pressure probably cede Puerto Caballo. Mediators are agreed Paraguayan proposal, which the chairman of that delegation arriving here Sunday is under instructions to make to the Conference next week, will be unsatisfactory and the stated intention of proceeding with the arbitral compromise merely a subterfuge whereby a settlement can be delayed again.

Mediators are convinced now is the psychological moment for a last decisive attempt. Further argument is futile since it is evident ex-belligerents will yield only to pressure. Therefore to force a showdown the Conference yesterday decided that immediately after the Paraguayan proposal has been rejected by us we should with considerable fanfare make the final Conference proposal for settlement of the fundamental question. Positions of the two countries are now so close that united pressure of Conference and six neutral countries should produce a compromise settlement. Moreover, as pointed out in telegram No. 18, April 14, 6 p. m., from American Legation at La Paz either of the lines discussed therein is more than fair to Paraguay and is feasible in Bolivia. The exact terms of the proposal which we shall make to the two countries will be submitted for the express approval of the Foreign Offices of the six mediators and we intend to request the presence in Buenos Aires of the Ministers for Foreign Affairs of Bolivia and Paraguay. It is barely possible time schedules



permitting Ministers for Foreign Affairs of Brazil, Chile, Peru, and Uruguay may be induced to attend. I expect the formula will be arrived at this week and must be kept secret until the stage is set with a large newspaper buildup for its disclosure say by the President of the Argentine Republic. In a measure, repeat the theatricals which were successful in June 1935.

My own time schedule is thrown out of gear by this development. While I have reservations on vessel leaving Valparaiso April 29 my colleagues have been most insistent that I remain for these critical negotiations. However, in view of Mr. Welles' letter to me of February 23 instructions are requested as to what my movements should be. [Braden.]

[File copy not signed]

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724.34119/1314: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, April 20, 1938—4 p. m.

[Received 5:12 p. m.]

95. From Braden. My 93, April 19, 3 p. m. Committees who went to La Paz and Asunción have tentatively agreed upon frontier for final Conference proposal: Starting at point on Pilcomayo equidistant between D'Orbigny and Gauchalla thence 27 of November thence point where intermediary line intersects an imaginary line drawn from Ravelo to Ingavi thence to Cachalabrada (approximately 59 degrees 40 west 19 degrees 40 south) thence point on Paraguay River midway between Puerto Caballo and Puerto Pacheco plus 200,000 pounds.

Delegates who went to Asunción believe Paraguay will accept this line under pressure particularly as all of the military except one favored ceding Puerto Caballo and Zubizarreta was only civilian strongly to oppose doing so. Paraguayan Minister of War remarked to the Peruvian Ambassador Fort Galpon may have to be moved westward to remain within Paraguayan territory.

Ruiz Moreno assures me Cantilo agrees with program outlined my telegram 93, April 19, 3 p. m. and meets with Conference tomorrow. He tells me he must visit Chile promptly so Chilean Minister for Foreign Affairs can get to Rio de Janeiro before May 20. Alvarado will again act ad interim which is all to the good.

Saavedra Lamas is completely out of the picture. [Braden.]

WEDDELL

724.34119/1313 : Telegram

*The Acting Secretary of State to the Ambassador in Argentina  
(Weddell)*

WASHINGTON, April 20, 1938—7 p. m.

51. For Braden. Your 93, April 19, 3 p. m. The Department approves of your remaining in Buenos Aires until the termination of the present phase of the negotiations.

WELLES

724.34119/1317 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, April 22, 1938—7 p. m.

[Received 9:20 p. m.]

96. From Braden. My 95, April 20, 4 p. m. Conversation with Argentine Minister for Foreign Affairs convinces my colleagues and me that he is almost completely ignorant of the Chaco problem, is handicapped by pre-conceptions and perhaps by suggestions from Saavedra Lamas and the latter's satellites within Ministry. He fears failure and is therefore reluctant to take strong stand through admitting the Conference must not [*now?*] make final proposal. We told him his idea of resorting to treaty on good offices and mediation should not even be considered. He spoke vaguely of further explorations in the two countries and said he wished before presenting it to obtain indications from parties that our final proposal would be accepted.

I would regard the situation as extremely serious were it not that all my colleagues and Alvarado agree with me that ideas of Argentine Minister for Foreign Affairs would be disastrous. We are trying to arrange long meeting with him to review situation thoroughly and express our absolute conviction program as laid down in recent Conference meetings is the only one which can now be followed and that our respective Governments are united in insisting upon it. Alvarado assures me that President of the Republic approves our entire program including frontier to be proposed and will ask the President to give Minister for Foreign Affairs definite instructions to follow it. Also there is some hope that during the week's absence in Chile of the Argentine Minister for Foreign Affairs Alvarado may again serve ad interim and the situation galvanized under his chairmanship.

Junior Paraguayan delegate promises me his country's proposals will be made to the Conference immediately after Zubizarreta's arrival here Wednesday. Alvarado and all my other colleagues agree that

simultaneously with the probable rejection of Paraguayan formulae the Conference must request presence here of ex-belligerent Ministers for Foreign Affairs to receive our definitive proposal. [Braden.]

WEDDELL

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724.34119/1315 : Telegram

*The Acting Secretary of State to the Ambassador in Argentina  
(Weddell)*

WASHINGTON, April 23, 1938—3 p. m.

52. For Braden. The American Ambassador at Rio de Janeiro reports<sup>31</sup> that the Brazilian and Argentine Ministers for Foreign Affairs have agreed that "in the event of the failure of the efforts of the two Commissions recently sent to Asunción and La Paz, the Peace Conference at present sitting at Buenos Aires, should make a final proposal to the two litigants to the effect that they should, in accordance with the principles set out in the declaration of the third of August,<sup>32</sup> have recourse, first, to the mediatory steps indicated in the Inter-American Treaty on Good Offices and Mediation,<sup>33</sup> concluded at the Inter-American Conference for the Maintenance of Peace, and then only as a final resort, in case this method fails, they should appeal to the Permanent Court of International Justice. If the proposal is not accepted, the Conference will declare terminated this phase of the negotiations (for the direct accord) and the parties should initiate steps for formulating the arbitral *compromis*".

Please telegraph any information and comment regarding this proposal in addition to that contained in your 96, April 22, 7 p. m., especially as to whether proposal has been presented to and discussed by the conference.

WELLES

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724.34119/1318 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, April 24, 1938—noon.

[Received 1:40 p. m.]

97. From Braden. My 96, April 22, 7 p. m. Alvarado assures me President of Republic is following all details and is determined to push for a rapid final solution based on approximate frontier described in my 95, April 20, 4 p. m. and will instruct Argentine Minister

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<sup>31</sup> Telegram No. 87, April 14, 4 p. m., not printed.

<sup>32</sup> *Foreign Relations*, 1932, vol. v, p. 159.

<sup>33</sup> Signed December 23, 1936, *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace*, p. 151.

for Foreign Affairs (1) energetically to pursue Conference program, (2) to confirm to Paraguayans Alvarado's previous declarations that prestige of Argentine President and Government is at stake therefore they insist on an early settlement.

My Brazilian colleague and I have been assured Justo before sailing will exert his influence along these lines with President of the Republic. We have also reviewed situation with the President's confidential secretary who recognizes urgency of strong decisive action. As closest adviser to the President he believes Ortiz will follow Alvarado's recommendations. He added the President of Argentina shares our fears regarding Argentine Minister for Foreign Affairs and desires the latter to leave for Chile next Friday precisely so that Alvarado may continue Chaco negotiations ad interim.

At Alvarado's suggestion Brazilian delegate promised to request Brazilian Minister for Foreign Affairs to urge on Argentine Minister for Foreign Affairs in a personal cable the energetic pursuance of our program (your 52, April 23, 3 p. m.) Argentine Minister for Foreign Affairs presented this idea to chairmen of mediatory delegations who rejected it as unworkable. Neither party has ratified the treaty; either Bolivia or Paraguay could claim desertion of the June 12 protocol while its terms are unfulfilled; Paraguay might on the other hand take advantage of the idea for further procrastination although in the end refusing to follow it.

The course of action under the treaty of good offices and mediation would amount to a new attempt at direct agreement; little could be expected from it coming immediately after the failure of this Conference to reach such an agreement. Conference delegates believe in the necessity of proceeding to the arbitral compromise as the more effective method.

Questions 1, 3, and 4 of Accioly memorandum have been considered in memorandum transmitted with my despatch 572 of November 27.<sup>24</sup> The Conference has already taken action regarding question number 2 as reported in my recent telegrams. [Braden.]

WEDDELL

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724.34119/1320 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, April 26, 1938—noon.

[Received 1:15 p. m.]

98. From Braden. My 97, April 24, noon. President's confidential secretary told me and Brazilian delegate that the President of Argentina yesterday gave categorical instructions to Argentine Minister

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<sup>24</sup> Not printed.

for Foreign Affairs to carry out the Conference program with energy and decision. The President will repeat these instructions today. Furthermore, he requests Brazilian delegate and me to keep in touch with his confidential secretary and if the program does not advance as we think it should, immediately to see him and he will take the necessary action at the same time handling the matter so discreetly that the Argentine Minister for Foreign Affairs will not know of our interviews.

Zubizarreta's arrival here has been postponed until Sunday. While I am disposed to consider this as typical Paraguayan tactics of procrastination my colleagues who went to Asunción believe that Government is making a sincere attempt to draft a final proposal which will take into consideration Conference viewpoints and perhaps pave the way for the submission of the Conference's final proposal. It is at least apparent from press despatches that daily meetings are being held in Asunción between Zubizarreta, the President of Paraguay, Minister for Foreign Affairs and important military and political leaders. [Braden.]

WEDDELL

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724.34119/1327: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, April 28, 1938—3 p. m.

[Received 6:25 p. m.]

100. From Braden. My 98, April 26, noon. At his request I called on the Argentine Minister for Foreign Affairs today. Our conversation can be résuméed as follows:

1. During his absence next week in Chile he desires Conference to proceed actively (*a*) to consider and dispose Paraguayan offer to be submitted by Zubizarreta; (*b*) to complete plans for presentation to the parties of final Conference proposal together with united pressure for its acceptance by all the mediatory powers. He suggested actual presentation would carry greater weight if made after he returns to Buenos Aires.

2. He was convinced final proposal must be made along the lines we have tentatively agreed upon but said he was insufficiently acquainted with Chaco problem to be of much help in drafting program which he therefore left in hands of other mediatory delegates since he had complete confidence in our knowledge and wisdom.

3. The only condition he laid down was that pressure must be made by all six mediatory governments, in other words, he wished to avoid repetition of the situation when all the League of Nations members glibly talked about sanctions on Italy but in showdown left a few larger nations holding the bag. In Santiago he will discuss Chile's full collaboration in pressing Bolivia. He declared Argentina will assume full share in pressing both ex-belligerents and warning will

be repeated to Paraguay that if failure results from her unreasonableness she can expect no sympathy or help from Argentina and will have to wage another war under far less favorable circumstances than the last.

4. President of the Argentine Republic thoroughly approves our program, is determined Chaco shall be settled as soon as possible, has given categorical instructions to this effect and every time he sees Minister for Foreign Affairs inquires as to progress.

The above described attitude coincides with statements made separately by the Argentine Minister for Foreign Affairs to the Brazilian delegate.

Argentine Minister for Foreign Affairs still does not know quite what it is all about but very evidently he has received emphatic orders from the President along these lines above stated.

The Chilean delegate has already written to President of Chile and confirmed personally by telephone that during Cantilo's visit he must be impressed that only alternative to decisive action now is another war.

In order to create propitious atmosphere as suggested in my 93, April 19, 3 p. m., I feel Conference proposal should be made direct to ex-belligerent Ministers for Foreign Affairs who should be requested to come here for that purpose. This procedure also is advisable because: (1) Zubizarreta is the most intransigent of Paraguayans neither correctly representing his Government's opinion nor accurately informing Asunción of developments here; (2) friction between Bolivian Minister for Foreign Affairs and delegate has increased markedly during last week.

The Brazilian delegate suggests that simultaneously with the presentation of Conference proposal six mediatory Presidents should cable directly to ex-belligerent Presidents insisting that a solution be reached.

I would appreciate receiving the Department's views and suggestions respecting the nature of pressure to be exerted. [Braden.]

WEDDELL

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724.34119/1327 : Telegram

*The Acting Secretary of State to the Ambassador in Argentina  
(Weddell)*

WASHINGTON, April 29, 1938—8 p. m.

55. For Braden. Your 100, April 28, 3 p. m. The Department approves of the procedure outlined in your telegram, including the plan to request the Ministers for Foreign Affairs of Bolivia and Paraguay to attend the conference session at which the conference proposal will be presented.

The President will send telegrams to the Presidents of Paraguay and Bolivia urging acceptance of the conference proposal. It is not deemed necessary that agreement should be reached regarding the texts of the telegrams to be sent by the six presidents. After referring to the work of the conference, our telegram probably will make a strong plea for a direct settlement upon the grounds of the best interests of the two parties, and the importance of such a settlement to the inter-American peace structure and to good international relations in this hemisphere.

The Department is of the opinion that the messages from the six presidents should be in the hands of the Presidents of Bolivia and Paraguay at least 24 hours before the conference proposal is presented.

Please inform the Department as soon as possible regarding the definite terms of the conference proposal and the date when it will be presented.

WELLES

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724.34119/1332 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, May 3, 1938—6 p. m.  
[Received 9:33 p. m.]

102. From Braden. In conversation yesterday delegates who went to Asunción found Zubizarreta almost as intransigent as before, although he admitted bringing with him two frontier suggestions of his Government, prepared after consultation with military and political leaders. He indicated desire to postpone presentation of these until return from Chile of Argentine Minister for Foreign Affairs.

In view of Zubizarreta's stand the mediators met with Alvarado today at my request and agreed in order to carry into effect our program as expeditiously as possible that either Alvarado or the President of the Argentine Republic should demand of Zubizarreta that he make his proposals without delay.

Alvarado has arranged meeting on Thursday morning of chairmen of mediatory delegations with the President of the Argentine Republic to review entire situation and program. Senior Peruvian delegate opposes inviting ex-belligerent Ministers for Foreign Affairs here instead favoring visits by delegates to ex-belligerent capitals, those who went to La Paz going to Asunción and vice versa. You may wish to make known the Department's position (your 55, April 29, 8 p. m.) to the Peruvian Ambassador at Washington. [Braden.]

WEDDELL

724.34119/1835 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, May 5, 1938—4 p. m.

[Received 9:40 p. m.]

104. From Braden. Zubizarreta outlined Paraguayan final frontier offer to Alvarado yesterday. Line to run from Ibibobo town on Pilcomayo River along Piccirculacion (see Neutral Military Commission map) along Ibibobo hills, leaving them, Carandaiti and Mandyapecua to Paraguay north to Parapiti River and along it to Matico thence along Bolivian line of separation through Ravelo to San Juan leaving the latter to Bolivia thence southwest and along the Otuquis River to its mouth. This is less favorable than Paraguayan proposals made before the trips, totally ignores delegates' conversations in Asunción, and cannot be considered seriously. I think it outrageous. Zubizarreta declared delegates who had gone to Asunción were ingenuous, had not understood accurately either President of Paraguay or the military, and in fact resented delegates' discussions with the military. He admitted Paraguayan offer is unacceptable and that it would be practically impossible to draft an arbitral compromise but held that no renewal of war threatened since the mediators were bound to preserve the peace and that in view of internal political conditions the only solution was for the Conference to delay negotiations indefinitely. In our conversation today with the President of the Argentine Republic and Minister for Foreign Affairs ad interim the former declared the situation grave, renewal of war threatens. The Conference cannot countenance any delay but giving full publicity to all measures taken and with absolute unity between the mediatory powers must push rapidly to a final conclusion. He remarked on the over long duration of this mediation; that the Chaco involves the maintenance of the American peace system and we can tolerate neither failure nor a new war. He said that of the mediators the greatest responsibility is Argentina's. He commented on parlous conditions elsewhere in the world making it more vital than ever that we keep the peace of this hemisphere and if the Chaco war were renewed none could tell what complications it would have and said "conceivably some of us might be pulled in."

The following program was agreed upon with President of the Argentine Republic:

1. To obtain from the Paraguayan delegation categorical statement within the next few days that they had no further frontier proposal.
2. To obtain a similar statement from the Bolivian delegation.
3. Immediately thereafter the Conference (and the Argentine Government acting as host) to invite the Bolivian and Paraguayan Ministers for Foreign Affairs to Buenos Aires for the concluding negotia-



tions. On their arrival make them repeat specific statements that neither party has further frontier proposals to make.

4. The Conference, making clear it has the right and obligation to do so, make final compromise proposal described in my telegram 95, April 20, 4 p. m. subject to such change in details as might be decided upon in consultation with military advisers taking into consideration actual conditions of the terrain.

5. President of the Argentine Republic stressed that the publicity given to Conference action must demonstrate the justice of our final proposal.

6. Adequate time (say 20 days) be allowed assenting. The President of the Argentine Republic and my colleagues agreed this period was necessary in order for public opinion favorable to acceptance to be developed in ex-belligerency. I maintain Conference should go into permanent session in an intensive effort to obtain acceptance and not allow any interruption in negotiations.

7. Immediately after presentation of Conference formula every means of exerting pressure on ex-belligerent Governments to be used in order to obtain acceptance including telegrams from six mediatory Presidents to the Presidents of Bolivia and Paraguay. (It was unanimously believed that this would be preferable to sending telegrams 24 hours in advance.)

8. If the Conference proposal is not accepted by both parties then to proceed to drafting of arbitral compromise but endeavoring if possible to have arbitration by a distinguished citizen of this hemisphere substituted for the World Court.

Meeting to receive Paraguayan proposal has been called for tomorrow morning.

I feel friction between Bolivian Minister for Foreign Affairs and delegate may cause latter's transfer. [Braden.]

WEDDELL

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724.34119/1336 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, May 6, 1938—5 p. m.

[Received 7:25 p. m.]

105. From Braden. My 104, May 5, 4 p. m. Paraguayan proposal this morning substantially same as described by Alvarado, principal exceptions being line touches Parapiti River only at Matico and turns south at Otuquis swamps instead of going on to San Juan.

Chilean junior, Peruvian, and Brazilian delegates and I emphatically rejected proposal as worse than previous ones, contrary to the spirit of the protocols, offering no security against war and tantamount to frontier which could have been imposed only if Bolivia had admitted complete defeat. I also said long duration of Conference, present tension, and pending incidents in the Chaco make it imperative that direct negotiations now be concluded; if Paraguay had

anything further to offer she must do so at once. Neither Argentine nor Uruguayan delegates joined with others in denouncing Paraguayan proposal. I assume Alvarado's unfortunate silence is due to return tomorrow of Argentine Minister for Foreign Affairs.

It is evident Paraguayans are trading and will improve upon their proposal in the west and perhaps north but their written instructions are not to cede even Puerto Caballo.

Bolivian delegate is being notified this afternoon by the Brazilian delegate on behalf of the Conference that if his country has any further offer to make it must be presented now. Alvestegui has received instructions to proceed as soon as possible to his post at the Vatican; also representing Bolivia before the League of Nations. No news received as to who takes his place here. [Braden.]

WEDDELL

724.34119/1340: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, May 9, 1938—noon.

[Received May 9—11: 57 a. m.]

106. From Braden. Finot has been appointed Bolivian first assistant replacing Alvestegui temporarily until another appointment is made. He assured me last night of complete cooperation along the lines Conference is now pursuing.

Saturday afternoon mediators demanded that the Paraguayan delegation now submit last word on Saturday.

I am endeavoring to get invitations issued to ex-belligerent Foreign Ministers within the next few days so that their arrival may coincide with that of Chilean Minister for Foreign Affairs on May 19. Brazilian delegate tells me Brazilian Minister for Foreign Affairs also will come here if his presence is deemed desirable. [Braden.]

WEDDELL

724.34119/1343: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, May 11, 1938—10 a. m.

[Received 11: 20 a. m.]

108. From Braden. At Conference session yesterday afternoon Argentine Minister for Foreign Affairs listened to opinions of the other mediators and expressed determination to get on with Conference final offer to ex-belligerent Foreign Ministers with united pressure of all neutral powers. When I stated as my Government's conviction that these Ministers should be invited to Buenos Aires at earliest

possible moment since Paraguay's last offer showed utter futility of further negotiations with their delegations he said the President of Chile had made the same statement and that he himself agreed. On the other hand Alvarado, who was also present, showed considerable timidity and a pro-Paraguayan bias.

My 105, May 6, 5 p. m. The Bolivian delegate notified the Brazilian delegate that his Government chooses to stand on the official offer the military junta described in my telegram from La Paz of April 13, 5 p. m., but would be glad to receive from the Conference a proposal along the lines suggested confidentially by the Bolivian Minister for Foreign Affairs. Finot also expressed his optimism regarding an early solution.

The Conference decided as follows:

(1) Argentine Minister for Foreign Affairs should make a last appeal to both ex-belligerent delegations to improve their final proposals. Immediately thereafter the Conference will invite the ex-belligerent Foreign Ministers to come to Buenos Aires.

(2) Each neutral delegation will instruct its military officers regarding the Conference frontier proposal. The military are to meet with the Conference Friday (earliest date Uruguayan officer can attend) and then prepare adequate maps showing location of the said frontier and draft exact proposal. Colonel Baker can represent the United States.

My 106, May 9, noon. Plans are for Chilean Minister for Foreign Affairs to pass through Buenos Aires May 17. I argued that by staying here a few days he could fly to Rio de Janeiro to keep his schedule and still give the Conference the benefit of prestige of his presence and perhaps that of Brazilian Minister for Foreign Affairs. The Brazilian delegate held Chilean and Brazilian Foreign Ministers should not attend first meeting with Paraguayan and Bolivian Foreign Ministers but only be called for later when we are able to assure them likelihood of signing peace treaty. I regret this development but hope Brazilian Minister for Foreign Affairs may be induced to come here for the last stages of negotiations as I feel his presence and pressure would be decidedly helpful. [Braden.]

WEDDELL

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724.34119/1348: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, May 16, 1938—7 p. m.

[Received 8:49 p. m.]

111. From Braden. My 110, May 13, 5 p. m.<sup>35</sup> Argentine Minister for Foreign Affairs in his capacity as Conference Chairman<sup>36</sup> today

<sup>35</sup> Not printed.

<sup>36</sup> José María Cantillo.

addressed telegram to ex-belligerent Foreign Ministers stating that the negotiations have reached a point where the Conference considers essential one more effort for peace and therefore requests their presence here; that the Conference is confident this personal contact will accomplish the final peace treaty as 3 years ago when the cessation of hostilities was brought about. Text by air mail tomorrow. Argentine Government invitation to attend May 25 festivities transmitted through Argentine Ministers at La Paz and Asunción.

Bolivian delegate stated he was sure Bolivian Minister for Foreign Affairs would attend and would so recommend.

Delegate said he favored Paraguayan Minister for Foreign Affairs coming. [Braden.]

WEDDELL

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724.34119/1352 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, May 18, 1938—3 p. m.

[Received 6:35 p. m.]

113. From Braden. My 111, May 16, 7 p. m. Paraguayan and Bolivian Foreign Ministers have accepted invitation. Former expected Wednesday, latter Monday. The acceptance of the Paraguayan Minister for Foreign Affairs states he will attend "some" Conference sessions, it being understood he does not consider himself a member of the Peace Conference, his country's representation being left to Zubizarreta.

I have several times assured my colleagues and the President of Argentina that the United States Government and President Roosevelt are both with them in determination to use on both sides reasonable concessions to obtain a settlement. In the last analysis, Paraguayan acceptance of the Conference proposal will depend upon degree of pressure put on Paraguay by Argentina. While the promises in this particular made to mediators by Ortiz and Cantilo are satisfactory, nevertheless I am disturbed because I sense a certain underlying timidity (especially in the latter) in their taking the steps recognized as necessary. Yesterday I urged Chilean Minister for Foreign Affairs to join with Brazilian Minister for Foreign Affairs in insisting upon a strong stand by all the mediators. You may consider it advisable to inform the Argentine Ambassador at Washington of the United States Government's concern that the Chaco shall be settled, emphasizing that Argentine pressure is the one essential to Paraguayan acceptance. Also a telegram from the President to the President of Argentina would be useful. [Braden.]

WEDDELL

724.34119/1353 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, May 18, 1938—7 p. m.  
[Received 10:08 p. m.]

115. From Braden. In interview with Argentine Minister for Foreign Affairs this afternoon he was pessimistic of reaching agreement with parties next week and expressed desire to discover some method which would permit the Conference to dissolve gracefully in the event of failure. He suggested implantation of security measures, renewal of diplomatic relations and a non-aggression pact which would leave matters in *status quo*.

I said that if worse came to worst doubtless some such arrangement could be contrived but pointed out that the one time a mediator had pounded the table (see my telegram 66, March 24, 7 p. m.) Paraguay promptly backed down and I was convinced united forceful stand by mediators would bring desired result. I said pressure on Bolivia would be most effective coming from Brazil, Chile, and perhaps the United States but above all Argentine pressure would turn the trick. He seemed impressed with my argument and assured me Paraguay would be warned (1) they must expect totally different attitude from Argentina than in the last war if another conflict occurs; (2) while Paraguayan intransigence will be interpreted as aggression against Bolivia it will be taken also as a "moral aggression" against the mediating countries. He concluded by saying he himself would speak in strongest terms to Paraguayan Minister for Foreign Affairs and requested I do likewise since it would be most helpful and as efficacious as it had been with Bolivia when I was in La Paz. I assured him I would do so.

Argentine Minister for Foreign Affairs and other colleagues agree it would be advisable as part of our program for me to address the American Club here next Tuesday keynoting negotiations with ex-belligerent Foreign Ministers. My speech would be given all possible publicity. Unless I am instructed to the contrary my speech will be along the following lines:

(1) Horrors of war, a repetition of which would be ruinous to them for generations;

(2) This alone would justify long life of Conference. Equally important is the preservation of the American peace system and good neighbor policy common to all American Republics;

(3) Difference between enforced and negotiated peace treaties. Reason and justice now recognized American principle of action in contrast to prevalence of force elsewhere in the world;

(4) Conference proposal will be made with the knowledge of all the facts, represents mature unified opinion of the six mediators and is an equitable compromise insuring security against war. Both

parties in broad spirit of American statesmanship and ideals must make sacrifices of real and imagined rights and claims. These will be more than compensated by benefits resulting from permanent peace;

(5) Work of the United States and other neutrals in Conference has really represented all American opinion hence in case of failure the Conference must render account of stewardship assigning credit or blame where due.

Does the Department want text of the speech for release in Washington simultaneously with release to press here? [Braden.]

WEDDELL

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724.34119/1356 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, May 20, 1938—4 p. m.

[Received 9:30 p. m.]

117. From Braden. Tentative program decided upon yesterday to be confirmed on Monday is as follows: May 24 ex-belligerent Foreign Ministers will arrive and be received by President of the Argentine Republic who will express to them his desire that settlement be reached promptly.

May 25 afternoon telegrams from Presidents of mediatory nations to Presidents of Bolivia and Paraguay to be sent so they may appear in next morning's papers.

May 26 morning Conference will receive Bolivian and Paraguayan Foreign Ministers at plenary session. Argentine Minister for Foreign Affairs will speak first and be followed by chairmen of each neutral delegation. Theme of addresses will be solidarity of mediators.

May 26 ex-belligerent delegations will be invited separately and each given the Conference formula for settlement together with memoranda justifying our proposal.

May 28 ex-belligerent delegations to give their replies. If unsatisfactory the Conference will then go into permanent session.

Little has been defined so far respecting degree and nature of pressure to be exercised. Argentine Minister for Foreign Affairs will warn Paraguayans (see second paragraph my 115, May 18, 7 p. m.) also will state that at opportune moment Conference will publish its proposal together with acceptances or rejections thereof. I have urged other mediators to join me in declaration that in the event of another war our Governments will enforce very strictest neutrality. Peruvian delegate, however, argues that if as probable Bolivia accepts and Paraguay does not, former should not be penalized. On the other hand Argentine delegates hold both countries should be shut off from all aid and supplies. The foregoing measures are weak but best available until now. My 95, April 20, 4 p. m. Frontier to be proposed is

as follows: Point on Pilcomayo River equi-distant between D'Orbigny and Guachalla to 27 of November thence between the two lakes about equi-distant between Ravelo and Ingavi thence to Cerro Christian thence to run between Forts Pando and Paredes thence through nameless lake situated about 19 degrees of latitude 40 minutes south and 59 degrees of longitude 5 minutes west and have the line end at kilometre 1257 of the Paraguay River, that is to say 7,500 meters upstream from Bahia Negra along the *thalweg*. This leaves Puerto Caballo to Bolivia. [Braden.]

WEDDELL

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724.34119/1352 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, May 20, 1938—6 p. m.

62. For Braden. Your 113, May 18, 3 p. m. The situation has been thoroughly discussed with the Argentine Ambassador, but after careful consideration the Department has decided that it would not be desirable for the President to telegraph the President of Argentina at this time. In accordance with the Conference plan, the President will telegraph the Presidents of Bolivia and Paraguay at the proper time. Please inform the Department as soon as possible when the latter messages should be sent.

Your 115, May 18, 7 p. m. The Department does not believe it necessary for you to telegraph the text of your proposed speech, but desires to make the following suggestions:

*a.* Referring to point 2 of your outline, the Department does not consider it wise to mention a possible prolongation of the conference. Emphasis should be placed upon an early and satisfactory conclusion of the Chaco negotiations.

*b.* With reference to point 5 of your outline, it might be well to state that the mediatory delegates have made every effort to reflect the principles and opinions of the American nations during the Chaco negotiations rather than to state that the mediatory powers have really represented all American opinion. The Department also questions the wisdom of making any statement regarding the assigning of credit or blame by the conference in the event of a failure of the negotiations. It is considered important that the provisions of the basic protocols be kept in mind and that the conference not be placed in the position of assuming arbitral powers that it does not possess under those protocols. Any views regarding statements to be made in the event of a failure of the negotiations might better be expressed to representatives of one or both of the parties verbally rather than included in a public address.<sup>37</sup>

HULL

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<sup>37</sup> For text of Mr. Braden's address of May 24, see *The Chaco Peace Conference*, p. 138.

724.34119/1362 : Telegram

*President Roosevelt to the President of the Junta of Government of Bolivia (Busch)*

WASHINGTON, May 25, 1938.

The proposal which the Peace Conference presents to the Governments of Bolivia and Paraguay for the definitive settlement of the Chaco controversy is, in the opinion of the Government of the United States, an equitable one which offers every possibility for lasting peace, security and the national interests of the two parties. It is the result of the most careful study and impartial deliberation on the part of the delegates of the mediatory countries. It is in keeping with the pledge of the American republics to settle by peaceful means the international differences that may arise among them. It was formulated after full and frank exchanges of views between Conference delegates and members of the Governments of Bolivia and Paraguay at La Paz and Asunción. It represents a final effort to fulfill one of the obligations assumed under the Protocol of June 12, 1935, signed by the two parties under the auspices of the six mediatory governments.

Almost three years have elapsed since hostilities ceased in the Chaco, as a result of the voluntary agreement between Bolivia and Paraguay. That agreement put an end to the death and destruction of armed conflict, but the burden of suffering and loss must still weigh heavily upon the two peoples. I am confident that Your Excellency shares my deep conviction that the peoples of the two countries want peace and should have peace. The Peace Conference at Buenos Aires has been striving for three years to assist the Governments of Bolivia and Paraguay to make peace secure. An opportunity to crown these long negotiations with success now presents itself. There exists for all of those participating, directly or indirectly, in the work of the Peace Conference a solemn obligation to seize that opportunity.

The Government of the United States has cooperated loyally and actively with the Governments of Bolivia and Paraguay and with the governments of the other mediatory nations in seeking a just and definitive settlement of the Chaco controversy. It has a vital interest, in common with its sister republics of the Americas, in preserving peace in our hemisphere. In the present instance, the Government of the United States records its complete solidarity with the Governments of Argentina, Brazil, Chile, Peru and Uruguay in urging in the strongest and most friendly manner the acceptance by the Governments of Bolivia and Paraguay of the proposal referred to.

Accept [etc.]

FRANKLIN D. ROOSEVELT



724.34119/1362 : Telegram

*President Roosevelt to the Provisional President of Paraguay (Paiva)*

WASHINGTON, May 25, 1938.

The Peace Conference which has been in session at Buenos Aires for almost three years in an effort to assist the Governments of Paraguay and Bolivia to reach a settlement of the Chaco controversy now presents a final proposal for a direct agreement between the two countries. That proposal represents the impartial and informed conclusions of a group of distinguished and able delegates who have participated in the negotiations over a period of three years. There has been an exhaustive exchange of views between members of the Governments of Paraguay and Bolivia and delegates of the Conference. The proposal is based upon the results of these long negotiations, upon the inter-American principle of the settlement of international differences by peaceful means, and upon the Protocol of June 12, 1935 which was ratified by Paraguay and Bolivia under the auspices of the six mediatory governments. In the opinion of the Government of the United States, the proposal should be acceptable to Paraguay and Bolivia because it assures peace and security to both parties, because it is just and equitable, and because it takes into consideration the national interest of both countries.

Armed conflict in the Chaco was terminated almost three years ago through the voluntary agreement between Paraguay and Bolivia as embodied in the provisions of the Protocol of June 12, 1935. There was no victor and no vanquished, although the peoples of the two countries still suffer from the inevitable misery and destruction of war. The six mediatory governments are convinced that the people of Paraguay and Bolivia want no renewal of war and are strongly in favor of a definitive settlement of the Chaco controversy. I am sure that Your Excellency is in entire accord with this will for peace, and that your Government will spare no effort to bring to bear every influence in favor of the opportunity now presented by the Conference proposal.

The Governments of Argentina, Brazil, Chile, Peru, Uruguay and the United States have worked together energetically and loyally for three years in an effort to assist Paraguay and Bolivia to reach a direct settlement of their differences. They stand together now in unqualified support of a proposal which they believe is equitable, is in the best interests of the two parties, and, as a safeguard to peace on this hemisphere, is of vital concern to each and every one of the American republics. Under these circumstances, the Government of the United States considers it an obligation of friendship and of duty to strongly

urge acceptance of the Conference proposal by the Governments of Paraguay and Bolivia.

Accept [etc.]

FRANKLIN D. ROOSEVELT

724.34119/1386 : Telegram

*The Provisional President of Paraguay (Paiva) to President Roosevelt*

[Translation]

ASUNCIÓN, May 26, 1938—1 p. m.

[Received 4:56 p. m.]

I have had the great honor of receiving Your Excellency's radiogram in which you inform me that the Government over which Your Excellency worthily presides considers that it is an obligation and a duty of friendship to urge the acceptance by Paraguay of the proposal which is presented at this time by the Peace Conference for the solution of the boundary problem which, for some time past, has been dividing us from Bolivia. I hasten to state to Your Excellency that this and all the other efforts of the honorable members composing the mediating organ have been duly appreciated in my country and that the Paraguayan Government and people cannot hesitate to accept the proposal of solution which is announced, if the proposal, as Your Excellency states, is just, takes into account the indisputable rights of my native land and guarantees security and peace for Paraguay. And if that should not be the case, we ought not because of that give way to discouragement in view of the fact that having as we do have the warmest desire to see the American peoples living together in true peace and friendship we are certain that over all the difficulties the American principle must prevail of the settling by peaceful means of international disputes, a principle which Paraguay has respected and must respect as is proved by the fact that she signed and ratified the Protocol of June 12, 1935, at a time when the victorious national army was recovering the territory improperly and violently usurped by neighboring countries.

In assuring Your Excellency that we shall spare no efforts for achieving the peace longed for, I have the honor [etc.]

FELIX PAIVA

724.34119/1369½ : Telegram

*The President of the Junta of Government of Bolivia (Busch) to President Roosevelt*

[Translation]

LA PAZ, May 28, 1938—12:12 a. m.

[Received 1:41 a. m.]

I have the honor to advise receipt of Your Excellency's weighty telegram concerning the proposal which the Peace Conference will

submit to the Governments of Bolivia and Paraguay for the definitive settlement of the Chaco controversy which, in Your Excellency's view, is equitable and offers all possibilities of assuring an enduring peace and the national interests of the two parties. Your Excellency adds that the said formula is the result of the most careful study and impartial deliberation of the delegates of the mediating countries, that it has, furthermore, been produced by a broad exchange of views between the delegates of the Conference and the members of the Governments of Bolivia and Paraguay at La Paz and Asunción and that it represents, in short, a final effort to carry out one of the obligations assumed with the Protocol of June 12, 1935, signed under the auspices of the six mediating Governments, with which Governments the most excellent Government of the United States declares that it is entirely solidary in this action and that, lastly, as there is presented an opportunity to crown with success these negotiations, already long, there is a solemn obligation for all to hasten, in the most friendly and effective manner, the acceptance by the Governments of Bolivia and Paraguay, of the proposal referred to. I greatly appreciate and am grateful for Your Excellency's message, as the Bolivian Government and people have always appreciated and been grateful for the noble cooperation of the Government of the United States, together with the other mediating nations, for the purpose of achieving a definitive settlement of the Chaco controversy that would consolidate peace in our hemisphere. I share Your Excellency's conviction that both peoples desire to have the peace which they require for their development and progress and trusting in Your Excellency's high justification and that of the most excellent Governments of the mediating countries, I hope that the proposal which may be submitted to us may be reasonable and equitable and may contain, as Your Excellency believes, all possibilities for the assurance of a durable and prosperous peace.

Please accept [etc.]

GERMAN BUSCH

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724.34119/1374 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, May 31, 1938—7 p. m.

[Received 9 p. m.]

134. From Braden. Bolivian Minister for Foreign Affairs accepted the Conference proposal today, pointing out in his memorandum that Bolivia makes this sacrifice for the sake of lasting peace although the line is manifestly unfair to her; he recalled much more favorable Conference proposal made on October 15, 1935; referred to the announcement appearing in the press that Paraguay is withdrawing adherence to optional clause of World Court statute which causes

Bolivia to fear Paraguay will reject Conference proposal and later attempt to avoid arbitration; memorandum adds that Bolivia is confident the mediatory governments will give public testimony that Bolivia has always cooperated and will "point out the party who by every means has delayed, made difficult and impeded" a solution; it reserves Bolivia's juridical rights as unprejudiced by this acceptance.

Press communiqué states that Conference considers the Bolivian reply "very satisfactory". No other comment will be made in order to avoid influencing Paraguayan reply unfavorably.

My 133, May 30, 4 p. m.,<sup>38</sup> last sentence.

Secretary apparently appreciates situation and he may get results. Nevertheless I am still concerned by Argentine Minister for Foreign Affairs' lack of force in dealing with Paraguayans. [Braden.]

[File copy not signed]

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724.34119/1376 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 1, 1938—3 p. m.

[Received 5:09 p. m.]

136. From Braden. Paraguayan Minister for Foreign Affairs and delegation this morning rejected categorically cession to Bolivia of any point on Paraguay River south of mouth of Otuquis. They state balance of Conference proposal is unsatisfactory but are willing to discuss changes.

Paraguayans except Zubizarreta were evidently afraid the Conference might publish news of their refusal and point to them as the intransigent party. I opposed this in order to leave open door for negotiation particularly in view of the statement by Argentine Minister for Foreign Affairs that Zubizarreta has appointment with President of the Argentine Republic this afternoon. In consequence press communiqué only states that Paraguayan reply has made certain objections to the Conference proposal which that organization will study.

Mediators meet this afternoon to study the Paraguayan reply and agree upon a Conference attitude toward it. Tomorrow morning we meet with Paraguayans again at which time due to my particular insistence Chilean Minister for Foreign Affairs will attend. [Braden.]

WEDDELL

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<sup>38</sup> Not printed.

724.34119/1378: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 2, 1938—6 p. m.

[Received 8:10 p. m.]

137. From Braden. At Conference session this morning Zubizarreta maintained with considerable violence of temper that the Paraguay River must be excluded from discussion and that this exclusion was an "irreducible" condition on the part of his country. Mediators replied that the protocol of June 12, 1935 provides for resolution of differences in the Chaco as a whole and Paraguay cannot change the provisions of that instrument now by excluding one of the elements.

Paraguayan delegates were called to order several times by Argentine Minister for Foreign Affairs for their digressions from the subject under discussion and the tone used. It is noteworthy that the Paraguayan Minister for Foreign Affairs was completely silent throughout the session. But on leaving the meeting he informed reporters Paraguay had said their last word on the question of the river and port.

Peruvian Ambassador made excellent point saying that previous Paraguayan treaties with Bolivia had all contemplated ceding portion of the river much larger than what we proposed indicating clearly Paraguayan intention which is not invalidated by subsequent lack of ratification. He further recalled statement in 1934 presentation to League of Nations the town of Bahia Negra "is most advanced *baluarte* of Paraguayan sovereignty" on the river.

Zubizarreta stated that we had not the right to repeat our insistence on cession along the river. He said Paraguay's objection is due to need of military security, Paraguayan settlements and interests near Bahia Negra and sentimental reasons. Military officers testimony showed military security already afforded by Conference line can be easily insured by forbidding in the treaty alteration by Bolivia of present military status on the river. Paraguayan military expert's half-hearted defense of Zubizarreta's thesis on security made no reference to non-fortification suggestion.

I pointed out that discussion between military officers present showed Paraguay would have complete security against any possible aggression; on no basis would approximately 6 kilometres given Bolivia along the river be worth much and certainly would not justify loss of life; while respecting Paraguayan sentimental valuation these are outweighed by peace; furthermore opinion of America would be scandalized to know when the time came that negotiations had failed

on account of 6 kilometres of swamps. I concluded without contradiction by Paraguayan delegation that we had the right and would exercise it of mooring any phase of the Chaco settlement; and moved that debate be concentrated on specific points of security and economic value to Paraguay involved in the cession along the river.

Zubizarreta opposed my motion reiterating that irrespective of any arguments produced Paraguay would not cede anything south of Otuquis.

Chilean Minister for Foreign Affairs did not attend meeting this morning. I have twice warned the Chilean delegate that his absence from Conference will be interpreted either as lack of interest on his Government's part or his own fear of failure. Interview with the President of the Argentine Republic was postponed until today and is to include Baez,<sup>39</sup> Arbo<sup>40</sup> and Zubizarreta. Conference meets tomorrow morning with Paraguayan delegation.

Your 71, June 1, 4 p. m.<sup>41</sup> Messages from all mediatory Presidents have been made public as well as Bolivian and Paraguayan replies except those to President Roosevelt. I suggest the replies be given to the press.

My 132, May 30, noon.<sup>41</sup> Help urgently needed but no instructions received yet. [Braden.]

WEDDELL

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724.34119/1381 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 3, 1938—4 p. m.

[Received 7:10 p. m.]

139. From Braden. My 137, June 2, 6 p. m. When Baez visited President of the Argentine Republic alone yesterday he alleged he was handicapped by his instructions which were the same as those given Zubizarreta. He said the latter was building in the Conference his political platform for the Presidency and otherwise indicated sharp difference of opinion between himself and Zubizarreta. The President of the Argentine Republic emphasized the necessity for settlement and that Chaco question is not restricted to Bolivia and Paraguay but is a continental problem. Zubizarreta is to see the President of the Argentine Republic this afternoon. Paraguayan Minister for Foreign Affairs, saying he was too tired to attend, requested that this morning's session be postponed since the delegation

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<sup>39</sup> Cecilio Báez, Paraguayan Minister for Foreign Affairs.

<sup>40</sup> Higinio Arbo, Paraguayan delegate.

<sup>41</sup> Not printed.

could not attend without its "chief". Mediators met anyway with Chilean Minister for Foreign Affairs; Bolivians this afternoon.

With regard to Paraguayan refusal to debate question of river, I said this morning that this attitude summarily dismisses the united effort of all the mediatory governments in carefully elaborating proposal; that Paraguayan refusal to listen to arguments which may be adduced by the mediators or which may arise from free debate is the essence of intransigence; what is more serious they deny to the mediators the right to fulfill their obligation under the protocol to promote a solution on this important matter and therefore we must obtain a categorical statement from the Paraguayan Minister for Foreign Affairs as to whether or not his Government insists upon stand taken by Dr. Zubizarreta yesterday. It was agreed that the Argentine Minister for Foreign Affairs will force the issue on the question at the next meeting with Paraguayan Minister for Foreign Affairs.

Apparent differences between the Paraguayan Minister for Foreign Affairs and the Chairman of the delegation are generally considered by the mediators as a favorable development. [Braden.]

WEDDELL

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724.34119/1382 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 3, 1938—7 p. m.

[Received 8:45 p. m.]

140. From Braden. Argentine Minister for Foreign Affairs stated this afternoon that President of the Argentine Republic requested Baez to transmit his remarks at their interview to the Paraguayan Government and expects an answer.

At request of Bolivian Minister for Foreign Affairs Conference issued communiqué tonight stating that "in view of certain erroneous publications the Peace Conference points out that the Bolivian reply was a full acceptance of the proposal made by the Conference to the two delegations".

Brazilian delegate has received telegram of congratulations from Brazilian Minister for Foreign Affairs on his work of peace and assuring him full support of the Brazilian Government and people.

It appears President of the Argentine Republic canceled his interview with Zubizarreta scheduled for today since he had "already spoken to the head of the Paraguayan delegation".

Conference meets with Paraguayans tomorrow morning.

Personal for Welles. I respectfully suggest that you inform Estigarribia<sup>42</sup> as soon as possible for him to pass on to his military

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<sup>42</sup> José Felix Estigarribia, Paraguayan Minister in the United States.

friends in Asunción that a continuance of Zubizarreta's intransigence will cause a breakdown of negotiations and consequently eventual war. And that furthermore President of the Argentine Republic, Argentine Minister for Foreign Affairs (and I am reliably informed the Argentine chief of staff) have informed the Paraguayan delegates that in the event of another conflict they must count on no help from Argentina. They have made the same statement to the mediatory delegates. [Braden.]

WEDDELL

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724.34119/1383 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 4, 1938—5 p. m.

[Received 7:20 p. m.]

142. From Braden. My 139, June 3, 4 p. m., second paragraph. Statement was made in weak fashion by Argentine Minister. Therefore, I repeated practically as worded in telegram under reference. Paraguayan Minister for Foreign Affairs made an entirely satisfactory reply that his Government would respect protocols and discuss all subjects thereunder. Zubizarreta stood on what he said Thursday. I expressed my inability to comprehend utterly divergent declarations by Paraguayan Minister for Foreign Affairs and Chairman of delegation but agreed with motion of Argentine Minister for Foreign Affairs we should pass on to consideration of balance of line without prejudice to returning to debate on Litoral. Paraguayans made no reply.

Regarding lines in the west and north, Paraguayan objections are: (1) line is unfair to Paraguay; (2) no security given, and (3) economic considerations require qualitative compensation. Regarding the first, Ruiz Moreno made excellent exposé showing Conference proposal gives Paraguay three-quarters of Chaco, which according to publications of Baez, Arbo and other Paraguayan authorities is bounded by Paraguay, Pilcomayo, Parapiti and Otuquis Rivers. Paraguayan delegation claimed there is no security at all in this line and presented six-point memorandum of their military adviser which was labored and frequently fallacious in argument. Junior Paraguayan delegate again had to be called to order for statement mediators only considered Bolivian security; with the hearty endorsements of Zubizarreta he declared Paraguay had no faith in treaties (specifically mentioning Pact of Paris<sup>43</sup>) international law or morality where Bolivia is concerned; an instance in point was that last war was not prevented by the Argentine guarantee of Pinilla Soler *modus*

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<sup>43</sup> Treaty between the United States and other powers, signed at Paris, August 27, 1928, *Foreign Relations*, 1928, vol. 1, p. 153.



*vivendi*.<sup>44</sup> Uruguayan delegate made excellent defense of the neutral moral guarantee as having a practical and material use. Argentine Minister for Foreign Affairs closed the meeting by stating that apparently the spirit in which the Paraguayan delegation was considering the Conference proposal was quite different from the one which prompted it and that it must change before agreement is possible.

Throughout session Zubizarreta continued intransigent and displayed hostile attitude towards Conference. My colleagues and I feel it is impossible with Zubizarreta in charge of delegation in his present frame of mind. He has requested from the Peruvian Ambassador, who agreed with me, he will tell Zubizarreta that unless Paraguayan attitude changes Peru will move on Monday or Tuesday that negotiations be terminated. If Zubizarreta argues against this course it will be an indication that he is willing to yield.

Next meeting is Monday morning with Paraguayans.

My 140, June 3, 7 p. m. Add to third paragraph "and above all urging redoubled efforts for peace". [Braden.]

WEDDELL

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724.34119/1884 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, JUNE 6, 1938—11 a. m.

[Received 12:05 p. m.]

143. From Braden. My 142, June 4, 4 [5] p. m. Zubizarreta speaking "purely personally, not as a delegate" agreed yesterday with the Peruvian Ambassador that to continue conversation along the present lines was futile and suggested instead Paraguayan Minister for Foreign Affairs be requested to make a counter offer. I think Zubizarreta is basically right since it seems practically certain that under no circumstances will Paraguay yield to Bolivia any of the river south of Otuquis. On the other hand, on the basis of conversations with Finot, I am satisfied that the maximum concession to be hoped for from Bolivia is Conference proposal, with possible minor changes in the interior, terminal point at mouth of Otuquis and no cash payment. Arbo tells me he thinks such an agreement feasible although unfortunately he has little influence. In order to bring Paraguayan counter offer within the limits best strategy appears to be to continue pressure on Paraguay for a day or two more for acceptance of Conference proposal and river cession.

Brazilian Minister for Foreign Affairs telegraphed Brazilian delegate that the Paraguayan Minister at Rio de Janeiro who as Minister

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<sup>44</sup> Signed at Buenos Aires, January 12, 1907, *Foreign Relations*, 1907, pt. 1, p. 87.

for Foreign Affairs signed June 12 protocol has gone to Asunción to insist that settlement be reached. [Braden.]

WEDDELL

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724.34119/1382 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, June 6, 1938—7 p. m.

74. For Braden. Your 140, June 3, 7 p. m. Duggan<sup>45</sup> saw Estigarribia late Saturday afternoon, and spoke with him along the line of the last paragraph of your telegram under reference. Estigarribia had not received any information with regard to the conference proposal and appeared reluctant to pass on any advice, even to his military friends, until he was fully apprised of the details of it. These details will be brought to General Estigarribia's attention as soon as he returns from a short visit to New York.

In general, Estigarribia did not seem sanguine as to the success of the present conference proposal. He indicated his belief that Paraguay was being requested to give up too much territory; that the proposal did not take into account the geography and topography of the region, and that Paraguay, which lost lives to acquire what it now controls *de facto*, would not look favorably upon giving up territory in return for monetary compensation. He did not seem impressed by the attitude the Argentine Government had stated it would take in the event of another conflict, protesting vigorously that no Argentine support had been received during the last war, as he would demonstrate beyond any question in the memoirs which he is now preparing.

HULL

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724.34119/1389 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 7, 1938—11 a. m.

[Received 11:55 a. m.]

145. From Braden. Argentine Minister for Foreign Affairs last night informed me and the Brazilian delegate that the Bolivian and Paraguayan Foreign Ministers had tea with him alone. Former was thoroughly reasonable and agreed if the offer were made to him to increase cash payment to 400,000 pounds. On the other hand Paraguayan Minister for Foreign Affairs again declaimed on Zubizarreta's lack of influence with the army and politically, availed of every ex-

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<sup>45</sup> Laurence Duggan, Chief of the Division of the American Republics.

cuse to avoid signing agreement but finally promised to telephone President of Paraguay presumably to request more liberal instructions.

Subsequently Bolivian Minister for Foreign Affairs gave me same description of the meeting adding that the Argentine Minister for Foreign Affairs was very mild in approaching the Paraguayan. When the Argentine Minister for Foreign Affairs urged settlement as necessary success Lima Conference <sup>46</sup> Bolivian Minister for Foreign Affairs says he replied that if after all his country's conciliatory efforts and sacrifices no agreement were reached or arbitral compromise concerted in accordance with pledges given by Argentine and Brazilian Foreign Ministers on June 12, 1935, Bolivia would lose all faith in collaboration of American nations, would not attend Conference at Lima or any other, and would devote herself to war preparations to win back her just rights. [Braden.]

WEDDELL

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724.34119/1390 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 7, 1938—3 p. m.

[Received 7:25 p. m.]

146. From Braden. Brazilian delegate and I in conversation with Paraguayan Minister for Foreign Affairs this morning emphasized that failure of Conference would inevitably entail renewal of hostilities and that for this and many other reasons principally preservation of American peace system final treaty must be accomplished now. We indicated two possibilities:

1. If Paraguay is determined not to relinquish any portion of river then forego cash payment and accept interior without alteration.

2. If Bolivia obtains a few kilometres of swampy river south of the mouth of Otuquis River then some modification could be made on interior line and amount of cash payment increased.

In reply to Minister's assertion that political conditions in Paraguay impede any settlement we said ratification of treaty could be left until such time as Paraguay has constitutional congress and that we are confident better atmosphere created through appointment of diplomatic representatives and active discussion of Chaco matters dying down, would enable that congress to ratify. Meanwhile adequate security measures would be established in Chaco. If preferred, agreement need not be put in definite treaty form but made provisional and subject to approval of congress. Brazilian delegate suggested that if

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<sup>46</sup> See pp. 1 ff.

need be it could be kept secret. I have stated that I do not like the latter idea. Please instruct me in this respect.

I stated that fundamental policy of my Government is peace in America and likewise settlement of the Chaco problem at this time is of prime importance to the President and my Government. Availing myself of the Minister's remark that the military were a controlling factor in Paraguay I suggested he might strengthen his own position by arranging for Minister of War Bozzano to fly to Buenos Aires.

Paraguayan Minister for Foreign Affairs contrary to usual custom indulged in very few generalities and flowery speeches. He told us he would telephone today to Minister for Foreign Affairs ad interim results of conversations at tea yesterday and this morning including all our remarks and suggestions to be passed on to President of Paraguay and important military officers. [Braden.]

WEDDELL

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724.34119/1397 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

Buenos Aires, June 7, 1938—8 p. m.

[Received June 8—3 a. m.]

147. From Braden. At this afternoon's session Zubizarreta completed his rejection of entire Conference proposal, as usual without even attempting to answer mediators' arguments. Not once in these negotiations with the Foreign Ministers has Zubizarreta, even on details, said anything but no, no and no. When Argentine Minister for Foreign Affairs asked Paraguayans whether they had anything to offer before Conference declared direct negotiations terminated, after some debate said they would present counterproposal not later than Monday.

Brazilian and Chilean delegations have requested their Governments to instruct Legations at Asunción to make representations similar to those Argentine Chargé d'Affaires has been instructed to make on behalf of President of the Argentine Republic, insisting on peace and that Paraguayan declares offer must be one of two possibilities described in my telegram No. 146, June 7, 3 p. m., and to say that if direct negotiations have to be declared terminated it will be due to Paraguay's intransigence. I shall inform Howard<sup>47</sup> of situation by telephone.

Bolivian Minister for Foreign Affairs and delegation were informed by Conference that Paraguayans had asked for a few days in which to obtain requisite alteration of instructions. They accepted

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<sup>47</sup> Findley Burtch Howard, Minister in Paraguay.

this statement as a perhaps favorable indication, although the Bolivian Minister for Foreign Affairs inquired what the Conference would do (1) respecting security measures when and if direct negotiations are declared ended, and (2) if Paraguay still refuses to accept April 23 regulations or equivalent thereof.

During meeting of mediators after departure of Paraguayans it was suggested Argentina might exert decisive influence either by sending an army officer as confidential agent to Asunción or having President of the Argentine Republic telephone President of Paraguay but Argentine Minister for Foreign Affairs opposed the steps as excessive pressure.

My only hope for an agreement depends on, (1) influence which may be exerted in Asunción by presence there of Riart, and (2) Conference declaration calling on parties to draft compromise which may bring Paraguay to reason. [Braden.]

WEDDELL

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724.34119/1390 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, June 9, 1938—3 p. m.

75. For Braden. Your 146, June 7, 3 p. m. The Department concurs in your opinion that no attempt should be made to keep secret the terms of any agreement accepted by the two parties, even if the agreement is to be subject to congressional ratification. Furthermore, experience indicates that it would not be possible to keep the terms of such an agreement secret for any length of time.

For your information, the Department's view of the importance of a direct settlement at this time is being kept before the Argentine and Paraguayan diplomatic representatives here.

HULL

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724.34119/1400 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 9, 1938—8 p. m.

[Received 10:40 p. m.]

149. From Braden. Mediators met this afternoon to consider local press attacks on Conference and issue communiqué suggesting that public opinion before passing judgment await result of negotiations and the Conference publication of factual antecedents.

Telegram received from Argentine Chargé d'Affaires at Asunción quoting report to [on] his representations (my 147, June 7, 8 p. m.) states in résumé:

“Counter offer will contemplate Paraguayan rights; Conference cannot hold Paraguay responsible for failure since she has always shown utmost conciliatory spirit upholding principles first in diplomacy then in war; judgement cannot be passed until final stage of arbitral compromise [*compromise*] is concluded and Conference cannot adjourn until that is done; Paraguayan Government will repulse gratuitous and unfounded criticism.”

Argentine Minister for Foreign Affairs is having chronology of facts drafted for issuance by Conference when direct negotiations are declared ended; it will not pass judgement. He said he is no longer concerned with probable renewal of war in event of failure but rather how to close Conference on sound juridicial basis.

With Chilean support I emphasized with little success that closure of Conference should be considered when we are faced by actual failure and that now we should redouble efforts to bring Paraguay to reason.

Brazilian Military Commander at Corumba reports repeated incursions of Paraguayan troops establishing forts within triangle where according to best information they never were before. [Braden.]

WEDDELL

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724.34119/1401 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 10, 1938—8 p. m.

[Received June 11—8 a. m.]

151. From Braden. My 147, June 7, 8 p. m. Paraguayan Minister for Foreign Affairs advised Argentine Minister for Foreign Affairs this morning that his Government maintained instructions and as counter-proposal authorized line described my 104, May 5, 4 p. m. He requested advice as to whether this counter-proposal should be made on Monday or whether Paraguayan delegation should ask for a week's delay in order to send junior delegate to Asunción if possible to obtain more liberal instructions and a better counter-proposal. After considerable deliberation with us this afternoon Argentine Minister for Foreign Affairs summoned Paraguayan Minister for Foreign Affairs and Zubizarreta to tell them that mediators felt it was up to the Paraguayans to decide on presentation of their counter-proposal. He warned it would entail immediate terms of direct negotiations; initiation of arbitral compromise period which the Conference is not disposed to let run indefinitely and withdrawal of military observers at its conclusion; that mediators see no utility in further delay unless there is real basis for belief that a counter-proposal will be made at least approximating Conference lines in the interior.

Paraguayan Minister for Foreign Affairs slept during most of the interview and Zubizarreta said he could not promise one way or the other but he very evidently desires the opportunity to develop another counter-proposal.

It has become apparent that the Paraguayan Minister for Foreign Affairs and delegation have not fully informed the authorities in Asunción of the negotiations here including important phases of the Conference proposal. For instance, last Wednesday President of the Argentine Republic telegraphed Argentine Chargé d'Affaires at Asunción to make sharp protest because no answer had been given to questions raised by him in interview with the Paraguayan Minister for Foreign Affairs on June 1; it developed that message had been sent by ordinary mail and had not yet arrived in Asunción. I doubt that Paraguayans' conversation with Cantilo and other mediators have been adequately transmitted, if at all.

The Argentine Minister for Foreign Affairs is pessimistic regarding Paraguayan final counter offer being acceptable. Peruvian delegate, not Paraguayan, suggestion is more stalling. The Chilean and Brazilian delegates and I on the other hand believe it indicates a weakening of the Paraguayans of which we should take advantage in every way possible. This is perhaps somewhat analogous to that of December 1935; hence conceivably an airplane visit to Asunción by the Brazilian delegate, myself and one other, preferably Argentine, might turn the trick if the trip were made at Paraguayan invitation. The only alternative to such affirmative action would seem to be for the Conference to sit tight here and exert continued pressure although there is little more to be done in that direction in view of Argentine reluctance.

Bolivians will be consulted this evening regarding possible week's delay. In any case from next Thursday until Monday some of the Conference including Bolivian Minister for Foreign Affairs and delegate will be in Montevideo attending Presidential inauguration. [Braden.]

WEDDELL

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724.34119/1402 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 11, 1938—3 p. m.

[Received 4:02 p. m.]

152. From Braden. My 151, June 10, 8 p. m. Bolivian Minister for Foreign Affairs accepted week's delay subject to it being made clear it was from Paraguayan request and that he would only attend

Montevideo inauguration if his presence is not required here by Chaco negotiations.

The turn of the United States to send military observer to Chaco comes on June 15. I have stated that I oppose sending ours because if direct negotiations are declared terminated, the protocol provides for arbitral compromise to be arrived at "by the parties" and I question mediators' responsibility for maintenance of security during the period of drafting. All my colleagues believe that the observers should be kept in Chaco until the compromise is drafted. I argued that while for a time after arrest and danger to lives of Chilean and Uruguayan officers (see my despatch 498, 20th September last)<sup>48</sup> conditions improved, they have recently deteriorated so that at present neutral officers are not receiving consideration due their rank and mission and Conference's failure will cause them to be treated with even greater discourtesy. I am unwilling to have American Army officer subjected to indignities causing the United States to lose face; observers' usefulness without the April 23 resolution<sup>49</sup> will be practically nil and I object to having an American officer present if hostilities are renewed, a contingency I foresee as an increasing probability after Conference failure. I believe that under no circumstances should observers be maintained unless adequate security system is accepted by Bolivia and Paraguay.

Colonel Baker<sup>50</sup> concurs. Please instruct. My stand has the further usefulness of bringing home to the Paraguayans and incidentally Argentine Minister for Foreign Affairs gravity of the situation once direct negotiations are terminated.

Press reports that bubonic plague has broken out within a few miles of Villa Montes Road. [Braden.]

WEDDELL

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724.34119/1403 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 13, 1938—9 p. m.

[Received 10:30 p. m.]

154. From Braden. My 151, June 10, 8 p. m. Telegrams from Argentine and Brazilian Chargés d'Affaires at Asunción indicate statement made by Paraguayan Minister for Foreign Affairs was false and that actually the Paraguayan Government was at the time preparing counter proposal which should have been made today. How-

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<sup>48</sup> Not printed.

<sup>49</sup> See *The Chaco Peace Conference*, p. 23, and annex 29, p. 108.

<sup>50</sup> Col. Lester D. Baker, Military Attaché in Argentina, military adviser to the delegation of the United States to the Chaco Peace Conference, representative of the United States on the Special Military Commission.



ever, all concerned having accepted week's delay, nothing can be done about it now.

The possibility of three delegates visiting Asunción has been dropped since no invitation was elicited from Paraguay and I do not wish to press the matter as it might be interpreted as undue pressure on Paraguay by the delegate of the United States.

Junior Paraguayan delegate should arrive at Asunción tomorrow evening and is scheduled to return here by plane Friday in order that final proposal be made Monday. I hope the purpose of his trip is as alleged but it may really be to reenforce intransigence of Zubizarreta or simply to delay negotiations since Paraguayan experience has always been that they gain by delay. Pending his return there appears to be little for the Conference to do but sit tight and be firm and prepare resolution declaring direct negotiations terminated tomorrow night supporting chronology so that action can be speedily taken in the event of failure. Ruiz Moreno claims he will present study proving conclusively that under the protocol the Conference has the right to set a period for drafting arbitral compromise. In this connection several of my colleagues feel that passing to arbitral compromise with a time limit say 6 months is the one thing to bring Paraguayans to accept Conference proposal.

Argentine Minister for Foreign Affairs for 2 hours on Saturday emphasized to junior Paraguayan delegate Argentine Government's desire that agreement be reached. Nevertheless he thinks it unlikely.

My 153, June 13, 4 p. m.<sup>51</sup> Argentine Minister for Foreign Affairs undertook to obtain more favorable editorial attitude from *Nación* and the Chilean delegate from *Prensa*. [Braden.]

WEDDELL

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724.34119/1408: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 14, 1938—5 p. m.

[Received June 15—10 p. m.]

155. From Braden. My 154, June 13, 9 p. m. Bolivian Minister for Foreign Affairs and delegate have declared to me they will demand compliance with the protocol provisions that Conference do not dissolve until arbitral compromise concerted and if the Conference attempts to do so they will denounce not only Paraguayan intransigence but bad faith of mediators as having tricked Bolivia into signature of protocol. Incidentally Bolivian Minister for Foreign Affairs on June 11 rejected an informal suggestion of Paraguayan Minister for

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<sup>51</sup> Not printed.

Foreign Affairs that their two countries renew diplomatic relations, get rid of the Conference, and reach an agreement directly.

Moreover, they declare in event of failure of direct negotiations Bolivia will insist Conference put April 23 regulations into effect and they will accept no substitute therefor. Since we know Paraguayans will not accept April 23 regulations another impasse will arise on that score. Furthermore, Bolivia will demand that Conference place blame for failure of direct negotiations on Paraguay and because of that country's refusal to accept regulations declare it rebellious to the Conference.

The thought behind Bolivian plan is that that country has built up a clear record of acceptance of Conference decisions from the beginning through the whole history of the regulations and recent negotiations on fundamental questions and they do not intend to let the mediators evade their responsibility under the moral guarantee and their signature of the protocol. As Finot states the situation they have a clear case and can continue to make things so disagreeable for the mediatory nations that the latter will eventually put the requisite pressure on Paraguay to force an agreement.

Finot has shown me in confidence copy of letter dated June 4 from Paraguayan Minister for Foreign Affairs to the President of Paraguay reporting June 1 conversation with President of Argentina. Baez says latter expressed desire for peace settlement and for final treaty, affection for Paraguayan people and throughout was most cordial; the same could be said of the Argentine Minister for Foreign Affairs and the other mediators had not shown too great a hostility and that was shown only in an attempt to get sufficient witnesses wherewith to bring pressure on Bolivia. This letter is not likely to induce in the Paraguayans attitude more conciliatory than heretofore and shows that either the Paraguayan Minister for Foreign Affairs under the guidance of Zubizarreta does not wish to encourage his Government to compromise or that he does not understand the implications of the diplomatically phrased warnings given him by the Argentine President and Minister for Foreign Affairs. As I have reported previously these have not in my opinion been sufficiently firm in their statements to the Paraguayans. For instance the Argentine Minister for Foreign Affairs admits that in his last conversation with junior Paraguayan delegate he greatly cheered the latter by telling him that the Conference would merely publish a chronology of facts and would not place responsibility for failure on Paraguay. While this is probably the only course open to the Conference nevertheless it does not coincide with the assurances given Bolivians and it is bad tactics to ease the Paraguayan minds in this particular at this time. [Braden.]

[File copy not signed]

724.34119/1402 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, June 14, 1938—6 p. m.

77. For Braden. Your 152, June 11, 3 p. m. The Department appreciates the difficulties under which the neutral military observers are working at the present time, but considers it extremely important that observers should continue their service in the Chaco during the present critical stage of the negotiations. While the observers doubtless are seriously handicapped by the failure of the two parties to accept an adequate security system, they may be able to exercise enough of a moderating influence with the two high commands to prevent serious incidents. The Department suggests the following procedure:

(a) Either Colonel Baker or the American Military Attaché at Rio de Janeiro should act as our military observer during the scheduled turn;

(b) You may emphasize to your colleagues the view of this Government that in the event of the termination of direct negotiations immediate attention should be given to obtaining the acceptance by the two parties of an adequate security system in order to enable the military observers to function effectively.

Please telegraph your recommendations regarding our observer so that arrangements may be made with the War Department. The Department will give immediate attention to any suggestions or recommendations regarding conference action on the security question in the event that direct negotiations are declared terminated.

HULL

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724.34119/1422 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 24, 1938—9 p. m.

[Received June 25—2 a. m.]

164. From Braden. Paraguayan counter-proposal offers line D'Orbigny Capirenda, Carandaity, Matico, Ravelo to point on Otuquis at latitude of San Juan down that river to its mouth on Paraguay River leaving forts Galpon and Patria for Paraguay.

Memorandum accompanying proposal reiterates irreducibility regarding cession of river south of mouth of Otuquis; argues interior line must be based on intermediary line with qualitative territorial compensations for any withdrawal made therefrom; preserves Paraguayan rights to entire Chaco in event this proposal is rejected; claims above line is only one affording security to Paraguay but con-

cludes with statement Paraguay will consider new proposal the Conference may desire to make.

Argentine Minister for Foreign Affairs reported junior Paraguayan delegate had told him counter-proposal was made to give an opening to negotiations; that civilians in Asunción were disposed to accept Conference proposal in the interior but that military insisted a fight should be made for a better line before accepting; Paraguay would grant Bolivia a free port wherever desired and counter-proposal was made precisely to bring about another one from the Conference.

Argentine Minister for Foreign Affairs also quoted Bolivian Minister for Foreign Affairs as being willing in the last extremity to accept line D'Orbigny; 27 November; a point approximately 20 [19] degrees 45 south 61 degrees 10 west; a point midway between Ravelo and intermediary line; to approximately 19 degrees 15 south 59 degrees 9 west passing close to Galpon and Patria; to mouth of Otuquis. Bolivian Minister for Foreign Affairs previously had agreed with me that he would accept Conference line but ending at mouth of Otuquis and with minor alterations to west and north.

At the suggestion of Argentine Minister for Foreign Affairs the Conference decided: (1) to advise Paraguayans in session tomorrow their proposal is totally unacceptable and we will not even submit it to Bolivians but we will endeavor to induce the latter to cede river and to improve conference line in the west and north; (2) we will spend 2 or 3 days negotiating maximum concessions from Bolivia; (3) if successful with Bolivia Conference will then present final offer making clear to Paraguayans no further negotiations are possible and if it is rejected direct negotiations will be declared terminated.

I expressed fear that the peculiar Paraguayan psychology was never to believe us when we claimed to have said our last word; when we offered five they always asked for six hence to get five we should offer four or less. I urged day and night negotiations with Paraguayans trading on the basis of our May 27 proposal. However, procedure decided upon by the Conference at least has the advantage of quickly reaching a conclusion.

Aside from Paraguayan intransigence principal handicap is timidity of the Argentine Minister for Foreign Affairs vis-à-vis Paraguayans, the fact that he is poor negotiator and his main concern to get rid of the Chaco.

Bolivian Minister for Foreign Affairs tells me he advised Argentine Minister for Foreign Affairs that if no progress has been made early next week he will withdraw acceptance of Conference proposal and leave Buenos Aires Wednesday.

Chilean delegate reports unusually large arms shipments through Arica to Bolivia during April. [Braden.]

724.34119/1423 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 25, 1938—10 p. m.

[Received June 26—9 a. m.]

166. From Braden. My 164, June 24, 9 p. m. Bolivian Minister for Foreign Affairs told me terminal on river of line he suggested was same as Conference proposal and not as quoted fourth paragraph my telegram under reference.

Procedure as per fifth paragraph my telegram under reference was followed. Argentine Minister for Foreign Affairs also stated that at appropriate moment Paraguayan memorandum will be answered in writing. Paraguayan delegation was visibly moved and readily accepted proposed Conference procedure placing themselves completely at our disposal in a most conciliatory speech by Paraguayan Minister for Foreign Affairs.

Before the session Brazilian delegate and I told Zubizarreta we were convinced his opinion was the deciding factor in Paraguay and that he must weigh the responsibility since on his decision depends peace or war. He replied approximately as follows: Internal political situation in Paraguay is such that were the Government to accept a settlement unsatisfactory to the people and Army it would fall immediately; Bolivian acceptance of Conference May 27th proposal and Paraguayan counter-proposal confines the territorial difference to a relatively small area; therefore if Bolivia does not insist on littoral south of Otuquis an agreement on balance of line appears feasible; if Bolivia will not, then nothing remains but to end direct negotiations; he realizes Conference must either obtain peace treaty promptly or end negotiations; Paraguay has no desire to procrastinate but in view of gravity of issues at stake desires to have one last effort made. Concretely he proposed that a committee of delegates go to Asunción not for a few days as previously but for 20 to 30 days perhaps taking with them an unofficial Bolivian agent to maintain contact with that Government. He would accompany the committee if desired. The committee could negotiate directly with the Government and materially influence civilian and Army leaders. If a gentleman's agreement resulted respecting the frontier the Paraguayan Government which now has all of its electoral system organized could submit it to an informal plebiscite including women. The problem could be brought home to the populace visually by map showing the Chaco and proposed division so they would understand yes means by peace and no probably war; both he and junior delegate were convinced plebiscite would be favorable. In fact the latter indicated the Conference line would probably be accepted minus littoral. If favorable the Paraguayan Government could sign peace treaty with full assurance of not failing.

Zubizarreta agreed to my suggestion that if his idea were adopted Paraguayan Government would immediately make intensive efforts to prepare favorable public opinion. Howard and other sources confirm that considerable progress has been made in building up more reasonable and conciliatory spirit although it is not yet sufficiently widespread, and because of internal politics any agreement must have almost solid support of the Army and Zubizarreta.

Howard and others several times have urged that best way to reach an agreement was by my sojourn in Asunción for a couple of weeks. Argentine Minister for Foreign Affairs informed Bolivian Minister for Foreign Affairs and delegate of receipt of counter-proposal and our projected procedure as per fifth paragraph my telegram under reference. Bolivian Minister for Foreign Affairs inquired whether the Paraguayan counter-proposal was negative and if so if it were as per information confidentially conveyed to him by Argentine Minister for Foreign Affairs. When the latter replied affirmatively Bolivian Minister for Foreign Affairs read a memorandum expressed in strong language stating:

- (1) Three Paraguayan rejections of Conference proposal frustrated all hope for pacific settlement;
- (2) Paraguayan attitude tried to place Bolivia in false position which was assisted by mystifications of the Buenos Aires press;
- (3) Bolivia deplored Paraguayan intransigence and declared his acceptance of Conference proposal nonexistent reserving all rights in the Chaco;
- (4) he called attention to grave situation for Bolivia and all America; and the destruction of American peace system since Bolivia would participate no more in pacts, conference, et cetera;
- (5) he demanded Conference put regulations into effect immediately.

Bolivian Minister for Foreign Affairs announced his memorandum had been given to the press. This statement naturally provoked violent protest from us during which Bolivians accused mediators of playing Paraguayan game, our extreme weakness and cited Argentine Minister for Foreign Affairs' expression of friendship for Paraguay. Finot indicated Bolivian memorandum was just a sample of what would come down on the mediatory nations in the event of failure.

During this debate Argentine Minister for Foreign Affairs took attitude that nothing more could be done but end negotiations. However, I insisted that since Bolivia had not been informed officially of Paraguayan counter-proposal their memorandum was out of order. I urged on them consideration of Zubizarreta idea which they rejected. They admitted memorandum had not yet been given to the press and agreed to advise their Governments not to publish it, holding it in suspense until next Wednesday providing that in the interim

the Conference is able to submit a Paraguayan proposal accepting Conference line minus littoral.

We meet tonight at 11:30 with the Paraguayans. [Braden.]

WEDDELL

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724.34119/1424 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 26, 1938—3 p. m.

[Received 8:24 p. m.]

167. From Braden. My 166, June 25, 10 p. m. Paraguayan Minister was informed last night of Bolivian memorandum and decision of Bolivian Minister for Foreign Affairs to leave Buenos Aires on Wednesday (actually he will leave Friday) unless progress were made in the meantime. They replied that what Bolivia did or said was of no concern to them and they were bound by instructions to their counter-proposal although they could listen to further proposals from us. Argentine Minister for Foreign Affairs indicated the object of inviting Paraguayan and Bolivian Foreign Ministers was to obtain real negotiations, not merely conveyance of messages to and from their Governments. Finally Paraguayans were asked whether they and their Government would accept Conference line in west and north if Bolivia gave up littoral for a free port and money were omitted from settlement. (In an aside to junior Paraguayan, I pointed out that if this were accepted in principle by them and the Government, the Conference would then be willing to send a committee of delegates to help put over the plebiscite). At the request of Paraguayan Minister for Foreign Affairs, the question was put in a formal note from the Conference Chairman. Despite mediators' repeated requests for a reply before Wednesday, the best obtained was that it would take a week or maybe a little less. Paraguayan attitude strongly contrasted with conciliatory tone at afternoon session.

Regarding plebiscite idea, Argentine Minister for Foreign Affairs, in splendid fashion, pointed out that we could never hope to succeed if the Paraguayan delegation were not committed openly to the views to be expressed by mediators in Asunción. Paraguayans pleading inability to do so under their instructions. Argentine Minister for Foreign Affairs and other mediators emphasized that such was Paraguayan intransigence that they could not even be said to have negotiated but throughout rigidly stood by maximum demands. Together with Brazilian delegate, I am seeing Zubizarreta this afternoon.

In the last day or two Buenos Aires press has changed its tone. Paraguay's attitude and counter-proposal are criticized and various

newspapers demand settlement to prevent almost inevitable war following Conference failure.

Above repeated to Asunción.

Fourth paragraph telegram under reference, Bolivian Minister for Foreign Affairs informed me and Brazilian delegate this morning, come what may, his memorandum will be given to the press late Wednesday. However, he agreed to eliminate point 5 on our assurance that this action would be taken by Conference of its own volition. The memorandum itself does not refer to mystification of Buenos Aires press. Its publication unquestionably will raise storm in Paraguay but it adheres to the truth and may at least have the advantage of bringing home to the Argentine Government and people grave menace of war.

Bolivian Minister for Foreign Affairs agreed to stay beyond Friday if there is any chance of reaching agreement. If mediators decided to visit Asunción or to adopt plebiscite idea, he would be ready to meet with us in Buenos Aires on our return if we thought agreement appeared feasible.

He authorized alternate delegate to negotiate, but not to inform the Conference, on the basis that if we could obtain Paraguayan agreement to Conference line minus littoral and with alterations in the west and north, for instance, D'Orbigny, he was confident he could obtain Bolivian acceptance. [Braden.]

WEDDELL

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724.34119/1425 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 26, 1938—11 p. m.

[Received June 27—6:23 a. m.]

168. From Braden. My 167, June 26, 3 p. m. Brazilian delegate's and my conversation this afternoon with Zubizarreta may be summarized approximately as follows.

Developments at yesterday afternoon session with Paraguayan delegation had made him more optimistic than ever before; but he had completely changed to extreme pessimism at last night's meeting because, (1) he had finally become firmly convinced that the Argentine Minister for Foreign Affairs and Government including President are uninterested in a solution and only desire to be rid of the question and the Conference; (2) the question asked by the Conference in note handed to the Paraguayans requires a categorical answer which he anticipates will be negative in which event the Argentine Minister for Foreign Affairs declared to him the Conference will end direct negotiations and he realizes arbitral compromise will never be concerted. In fact for the first time he admits war will be the outcome.



When I indicated that long duration of Conference, comprehensive nature of negotiations and necessity for me to get to my post in Colombia<sup>52</sup> made it essential before embarking on trip that we at least have some assurance that the Paraguayan Government and people by plebiscite would accept a frontier which would come within the limits which, based on my list to La Paz and conversations with the Bolivian delegation, we believed would make possible an agreement, he replied that he was insufficiently acquainted with views of civilian and Army leaders to hazard an opinion in this particular and furthermore such a surprising change in favor of an agreement had taken place last January as to induce him to believe Brazilian delegate and I could bring it about by a visit to Asunción followed by plebiscite as outlined in my telegram 166, June 25, 10 p. m. Brazilian delegate and I were impressed with sincerity of his statement in this respect and that it is not merely another stall for time.

He said additional reason for suggested visit was attitude of the Argentine Minister for Foreign Affairs and the Argentine Government making it desirable to transfer actual negotiation to Asunción where a more favorable atmosphere would prevail. Moreover negotiations would be easier since the delegation here is greatly restricted by limited instructions. He admitted in effect President of Paraguay had particularly taken care to tie Baez by instructions . . .

He criticized delegates who visited Asunción in April for their handling of negotiations, their failure to attempt making things concrete particularly as they subsequently gave an erroneous interpretation of their conversations to the Conference.

At the close of our interview I told him negotiations must rest on the basis of the note given Paraguayans last night since "we had no idea whether we could get Bolivia to renounce littoral and much less alterations in the interior line also but I was somewhat encouraged by our conversation today which after thinking over we should pursue".

Informing him in a general way of the Bolivian memorandum and understandable reasons Bolivian Minister for Foreign Affairs has for wanting to publish it Wednesday I urged that he do everything possible to offset unfavorable Paraguayan reaction thereto. He agreed to do so but pointed out that Bolivian publication would require public Paraguayan reply and he feared that under the best of circumstances it would have bad effects on Paraguayan opinion. Brazilian delegate and I feel he is probably right in this connection and that if it is possible it would be well to stop the publication. Since Bolivian Minister for Foreign Affairs categorically refuses to desist Brazilian delegate says he is requesting Brazilian Minister for Foreign Affairs to exert influence in this direction and I suggest the

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<sup>52</sup> Mr. Braden was the appointed Minister to Colombia.

Department might well point out the inappropriateness of publication to the Bolivian Minister at Washington for the urgent consideration of his Government. We may be closer than we realize to a meeting of the minds; therefore no provocative move should be permitted to disturb negotiations. [Braden.]

WEDDELL

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724.34119/1428 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 28, 1938—noon.

[Received 12:15 p. m.]

170. From Braden. It is apparent that neither the Paraguayan Government nor delegation dare assume the responsibility of accepting any line materially divergent from their counter-proposal. I am satisfied of their good faith in proposing plebiscite and visit to Asunción by committee of mediatory delegates. Therefore, I pursued this question yesterday and this morning together with the Chilean delegate. As a result Bolivian Minister for Foreign Affairs and delegate said that they personally favor and believe they can obtain approval of the Bolivian Government of the line described paragraph 4 my telegram No. 164, June 24, 9 p. m., but starting from Esmeraldas and ending at the mouth of Otuquis. There will be some difficulty around Forts Galpon and Patria but junior Paraguayan delegate states he is satisfied this line would obtain practically unanimous approval in a plebiscite which would be called within 20 days of the Conference proposing it. However, in order for the Paraguayan Government and delegation to avoid committing themselves in advance the question of procedure becomes difficult. Also, excepting for Chilean delegate, my other colleagues particularly Argentine Minister for Foreign Affairs and Peruvian delegate strongly oppose idea of plebiscite and visits. However, I will submit proposition to them at meeting this morning and telegraph later in the day.

Bolivian Minister for Foreign Affairs insisted to me this morning that he would publish his memorandum. It will certainly do our negotiations no good and may do irreparable harm. [Braden.]

WEDDELL

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724.34119/1429 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 28, 1938—8 p. m.

[Received June 20—12:24 a. m.]

171. From Braden. At meeting of mediators Chilean delegate and I won approval of plebiscite procedure as hereinafter described of all

except Barreda whom we hope to convince by bringing him into negotiations which are now sufficiently advanced for him not to upset them.

Tentative procedure accepted by junior Paraguayan delegate is:

(1) Paraguay will answer Conference June 26 note (my 167, June 26, 3 p. m.,) leaving opening for continuance of negotiations;

(2) Conference by note in reply will inquire of Paraguay whether that Government is disposed to submit to a plebiscite including women, a new and final Conference line;

(3) Paraguay will reply accepting this procedure agreeing to set the date for the plebiscite within 20 days of delivery of new proposal simultaneously suggesting that a committee of mediatory delegates go to Asunción to serve as "sources of information";

(4) Immediately thereafter Conference will propose line as per my 170, June 28, noon.

If this or equivalent procedure is followed ex-belligerent Foreign Ministers would return home. Bolivian Minister for Foreign Affairs has agreed with Brazilian delegate and me he will return here to sign peace treaty. The Department will observe that except for Forts Galpon and Patria a meeting of the minds has been almost achieved. The peace depends on our discovering the right procedure to follow. In opinion of all Paraguayan delegates conversations by mediators in Asunción will produce favorable plebiscite. I am disposed to agree with them.

Brazilian delegate gave Bolivian Minister for Foreign Affairs telegram from Brazilian Minister for Foreign Affairs strongly urging non-publication of memorandum. Bolivian Minister for Foreign Affairs stated to him that he has left the decision to his Government. Argentine Minister for Foreign Affairs has telegraphed instructions to the Argentine Legation at La Paz to urge non-publication and the Chilean delegate tells me the President of Chile is telegraphing the President of Bolivia in the same sense. [Braden.]

WEDDELL

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724.34119/1431 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 29, 1938—9 p. m.

[Received June 30—1:31 a. m.]

172. For the Secretary and Under Secretary from Braden. Junior Paraguayan delegate under instructions from Zubizarreta has agreed with me on the plan described in following paragraphs. I interviewed President of the Argentine Republic Ortiz and Bolivian Minister for Foreign Affairs Diez Medina and both approve entirely. Argentine Minister for Foreign Affairs approves but believes, see (f) below, should be of service. Argentine Minister for Foreign Affairs received

this evening telegram from Argentine Minister at La Paz reporting that the Bolivian Government has instructed Bolivian Minister for Foreign Affairs to forego littoral "for the sake of peace" but to insist on the rest of the Conference May 27 line. As soon as I learn of these instructions from the Bolivian Minister for Foreign Affairs himself the plan of procedure hereinafter described can be put into effect.

The plan is for President Roosevelt to instruct me to make the following proposal (of which I transmit on [*only?*] the bare outline for dressing up by the Department) to a plenary session of the Conference including ex-belligerent delegations:

(a) A brief preamble emphasizing the importance and need of peace.

(b) That the zone lying between the Conference proposal of May 27th (excluding the littoral which was made an irreducible condition by Paraguay) and the line offered by Paraguay in the counter-proposal of June 24 (first paragraph my telegram No. 164, June 24, 9 p. m.) is so narrow that it is impossible to contemplate a breaking down of peace negotiations between two sister republics on account of this difference.

(c) That since the Conference has not yet declared initiated the period for the concertation of the *compromis* the question of submitting this zone to a juridicial arbitration does not arise. Moreover in a juridicial arbitration neither Bolivia nor Paraguay can consent to the determination of particular zones.

(d) That within the period of direct negotiations now in process it is possible to carry out rapidly an arbitration *ex aequo et bono*, the arbitrator taking into account not the juridicial titles and pretensions of the two litigants (disputants) but only the antecedents furnished by the Conference and the parties respecting the direct negotiations.

(e) That such an arbitration would fix the frontier within the zone outlined by the lines mentioned in paragraph (b) above.

(f) Therefore he instructs me to propose to the Conference that any one or more of the Presidents of the mediatory countries, acting on behalf of the other mediatory Presidents and their Governments, serve as arbitrator or arbitrators and that Paraguay and Bolivia sign immediately an arbitral *compromis* to this effect committing themselves to the acceptance of the award; this *compromis* to be ratified by the Constitutional Convention in Bolivia and in Paraguay by a plebiscite possibly including women to be held within 20 days, the arbitral award to be given 10 days thereafter.

As soon as my instructions are sent the press should be informed of the fact; the instructions themselves should be given out at the hour of the Conference meeting which I can request immediately and of which I shall inform the Department.

I favor having my instructions specify the President of the Argentine Republic but at his request they should be as in (f) above. Therefore immediately after presenting the instructions I shall move that as host to this Conference the President of the Argentine Republic be requested by the Conference to assume the arbitration.

During the 30 days after signing the *compromis* the Conference and parties would be ostensibly informing the arbitrator. It will be understood hitherto between the Conference and the Bolivian and Paraguayan delegations that the award will be the line described in the fourth paragraph my telegram No. 164, June 24, 9 p. m., on which, as I reported yesterday, there is already virtual agreement. [Braden.]

WEDDELL

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724.34119/1432 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, June 30, 1938—2 p. m.

86. For Braden from the Under Secretary. Your 172, June 29, 9 p. m. The Department is delighted that there now is an encouraging prospect of a definitive settlement of the Chaco dispute, and appreciates to the full the perseverance, initiative and ability you have exercised in bringing the negotiations to their present stage. The Department believes, however, that the proposal should come from the Conference rather than from President Roosevelt. You may inform the other mediatory delegates that your Government has instructed you to strongly support the presentation and adoption of such a Conference plan. If this procedure meets with the approval of your colleagues, please make the proposal outlined in your telegram, as modified in the following paragraphs which refer to the corresponding lettered paragraphs of that telegram, to a plenary session of the Conference including ex-belligerent delegations.

(a) The preamble, in addition to emphasizing the importance and need of peace to all of the nations of this hemisphere might also emphasize that the assurance of peace would be of the greatest possible advantage to the people and Governments of Bolivia and Paraguay.

(b) No changes.

(c) No changes.

(d) Reference should be made to "arbitrators" instead of "arbitrator".

(e) No changes.

(f) The Conference proposes that the Presidents of the six mediatory countries, acting on behalf of their Governments and in collaboration with the Conference, serve as arbitrators in accordance with the plan outlined in paragraph (d) and that Paraguay and Bolivia sign immediately an arbitral *compromis* to this effect committing themselves to acceptance of the award; this *compromis* to be ratified within 20 days by the Constitutional Convention in Bolivia and by a plebiscite, possibly including women, in Paraguay, the arbitral award to be given 10 days thereafter.

The Department is of the opinion that the modifications suggested in the plan as outlined in your telegram are necessary and desirable in

order to preserve the solidarity of the six mediatory nations, to secure the added weight of the Governments and peoples of those six countries in support of the proposal, and as an effective step in strengthening the general system of inter-American peace machinery. The Department would approve of a motion by you that as host to the Conference the President of the Argentine Republic be requested by the Conference to communicate with the other five presidents regarding their role as arbitrators or to act as Chairman of the arbitrators.

The Department assumes that there will be a clear understanding concerning the award as set forth in the final paragraph of your telegram.

If it is possible to follow the procedure outlined in this telegram, please so advise the Department immediately. A statement then will be given to the press to the effect that you have been given instructions regarding a possible definitive settlement of the Chaco dispute, and that the instructions themselves will be made public at the hour of the Conference meeting.

HULL

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724.34119/1433 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, June 30, 1938—8 p. m.

[Received 11 : 22 p. m.]

174. From Braden. Argentine Minister for Foreign Affairs informs me that the President of the Argentine Republic both as a necessary measure and as an additional pressure on Paraguay has instructed Argentine Minister for Foreign Affairs after Conference session tomorrow morning adjourns, to reassemble it with the chiefs of missions of the mediatory governments also present, and to propose in the name of the Argentine Government that since it is evident that in the event a direct agreement or an arbitral *compromis* are not reached war will be renewed, the mediatory nations should develop a uniform policy looking to the adoption of measures in the face of that eventuality. This statement will be issued to the press. The President has in mind to make clear to Bolivia and Paraguay that in the event of war they will be unable to obtain arms, credits or other facilities from mediatory powers and will have to fight with whatever they may have on hand. I urged the Argentine Minister for Foreign Affairs to use particular caution in drafting press announcement so that the Paraguayans would not be encouraged to think that the mediatory powers would prevent Bolivia going to war and thereby practically assuring Paraguay permanence in her present positions.

Your 86, June 30, 2 p. m.; there has already been a leak to the press that instructions have been sent to me. It will do no harm.

The proposition will be discussed at meeting of neutrals tomorrow morning. Several changes are contemplated but not decided upon as yet. I shall telegraph further tomorrow. I appreciate the congratulations but I am not cheering until the treaty is signed. [Braden.]

WEDDELL

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724.34119/1434 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, July 1, 1938—11 a. m.

[Received 11:56 a. m.]

175. From Braden. My 174, June 30, 8 p. m., first paragraph. Argentine Minister for Foreign Affairs informed me last night the proposed meeting with the chiefs of mission would be postponed for a few days until assurances can be obtained from Chile and Peru that they will at least endeavor to discover some means within their treaty obligations with Bolivia which would permit them to enforce as rigid neutrality regulations in the event of another war, as Argentina, Brazil and Uruguay could with Paraguay and the United States with both ex-belligerent nations. Argentine Minister for Foreign Affairs thus desired uniformity of action by the six mediatory powers.

WEDDELL

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724.34119/1435 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, July 1, 1938—8 p. m.

[Received July 2—12:20 a. m.]

178. From Braden. Late yesterday when I spoke with the Paraguayan Minister for Foreign Affairs and delegates Zubizarreta, misled by Saavedra Lamas' assurances Bolivia would accept Paraguayan line, endeavored to modify substantial understanding described in my telegram 172, June 29, 9 p. m. Moreover, last night Argentine Minister for Foreign Affairs and I comparing notes found that the junior Paraguayan delegate had made flatly contradictory statements to him and to myself. In the light of this bad faith the neutrals agreed this morning that arbitration as contemplated should be by the Conference and the proposal come from the Conference, since we cannot expose the Presidents of our six countries to similar treatment. Argentine Minister for Foreign Affairs agreed on this plan but was so annoyed

by the Paraguayans' attempt to recede from agreement reached with him and me that he wished to submit line described in fourth paragraph my 164, June 24, 9 p. m. as a final offer and end negotiations if it were rejected by either or both parties.

Paraguayan reply to Conference June 26 note received this morning. It is in effect a negative but requests further negotiations. Conference issued a communiqué simply stating reply was being studied. Before the session this morning Bolivian Minister for Foreign Affairs confirmed to the Peruvian delegate and me that he would accept the arbitration under discussion including as the award the line described in telegram referred to next above. This afternoon Bolivian Minister for Foreign Affairs and delegate in Finotesque manner denied to us both separately that he had ever mentioned or heard of it. The Bolivians realize Paraguay is yielding a little and want to take advantage of this to get a more favorable line. Since he has also informed Argentine Minister for Foreign Affairs and the Chilean and Brazilian delegates of his consent this bad faith is particularly discouraging precisely when all my colleagues excepting only Cantilo are satisfied that an agreement on the frontier is within reach.

Junior Paraguayan delegate has telephoned me he is nearing success in winning over Zubizarreta to the arbitration plan. He is apparently counting a great deal on Estigarribia who is expected tomorrow afternoon. [Braden.]

WEDDELL

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724.34119/1443 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, July 2, 1938—3 p. m.  
[Received 4:08 p. m.]

180. From Braden. Junior Paraguayan delegate this morning informed Brazilian, Chilean, Peruvian delegates and myself that he was authorized by President of Paraguay and the military members of the Paraguayan Cabinet to accept plan reserving the right for arbitration and plebiscite. Thus, if the Paraguayan acceptance of today and Bolivian acceptance of yesterday had coincided, the peace would have been made but due to the Bolivian about-face we must get them back in line. However, junior Paraguayan was greatly disturbed because Argentine Minister for Foreign Affairs yesterday afternoon without consultation with any other member of the Conference and despite Conference resolution of yesterday morning summoned Zubizarreta and told him that plan was no longer under consideration and instead demanded that Paraguay present a last proposal not later than tomorrow on a possible frontier which if



rejected would bring direct negotiations to an end. We know Paraguay can make no proposal which would be acceptable and must persuade Argentine Minister for Foreign Affairs to desist from his idea. I will telegraph developments in this connection. In view of my disagreeable interview with the Bolivian Minister for Foreign Affairs and delegate yesterday I will not discuss matters with them excepting in Conference session and therefore they are now being handled by Brazilian delegate. [Braden.]

WEDDELL

724.34119/1444 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, July 2, 1938—7 p. m.

[Received 11:25 p. m.]

181. From Braden. My 180, July 2, 3 p. m. Brazilian delegate reached secret agreement with Bolivian Minister for Foreign Affairs that he would renew his acceptance of arbitration plan if instructed to do so by the President of Bolivia and he suggested that an appeal to the latter by Argentina and Brazil would bring about the desired result. He also insisted that there be no negotiations with Finot. We have progressed with the Argentine Minister for Foreign Affairs although he still holds out for inaction until Monday whereas time is of the essence. Accordingly three colleagues mentioned in my telegram under reference and I are actively pushing negotiations in an attempt to advance them to a point where the Argentine Minister for Foreign Affairs will make the above-mentioned appeal to President of Bolivia and otherwise take action including abandonment of his demand made of Zubizarreta.

Paraguayan delegation has been in conference with Estigarribia all afternoon explaining dissidence between Zubizarreta and the other members. Junior Paraguayan delegate assures us only remaining difficulty is that of fortresses Galpon and Patria. [Braden.]

WEDDELL

724.34119/1442 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, July 4, 1938—5 p. m.

[Received 7:50 p. m.]

182. From Braden. It was agreed on the motion of the Brazilian delegate at Conference session this morning to allow Argentine Minister for Foreign Affairs 48 hours in which to try personally to bring

about full agreement between the ex-belligerent delegations. I do not like this procedure but can do nothing about it.

Bolivian Minister for Foreign Affairs in an attempt once again to brand Paraguay as intransigent and officially ignoring the solution by arbitration and plebiscite, late Saturday delivered an impertinent note to the Conference inaccurately stating that the Conference on June 25th had promised to end negotiations if Paraguay did not accept within 72 hours the Conference line minus the littoral. A reply will be made pointing out the error of that statement. My colleague and I are satisfied recent difficulties have been provoked by personal ambition of Finot who, while at outs with Bolivian Minister for Foreign Affairs, nevertheless crows him.

Negotiations stand today as numbered below :

(1) Both parties have agreed secretly with mediators individually that the line of award in the arbitration under consideration shall be Esmeralda, 27 of November, Captain Ustares, Palmer de las Islas Chovoreca, mouth of Otuquis. Forts Galpon and Patria would probably be destroyed or quietly moved westward a short distance to allow Bolivian access to the triangle.

(2) The Paraguayan position is that logically the whole zone between their counter-proposal line and the Conference line minus the littoral must be submitted to arbitration.

(3) The Bolivian position is that the western line of the award must be written into the arbitral compromise as being Esmeralda, 27 of November, Captain Ustares because, as they declared to me on Friday, they did not trust the arbitrators to award it. Now they allege, to balance Paraguayan stand regarding Paraguay River, zone for arbitration should not touch Parapiti River.

Therefore on discovering a procedure satisfactory to both parties depends the peace.

As not [*now?*] contemplated, as soon as we have agreement in principle a treaty will be signed containing as one of its clauses the provision that the frontier be drawn in accordance with the award to be made *ex aequo et bono* by the Presidents of the six mediatory republics who will be authorized to delegate their powers. First draft of the treaty is ready and will be transmitted by next air mail pouch.

Paraguayans reported on Saturday that Bolivia was concentrating troops in Chaco evidently in preparation for attack in case of Conference failure. Today military observers confirm this report by telegraph and add that Bolivian troops have moved up to the intermediary line from Villa Montes and that the position of the observers is becoming very difficult. [Braden.]

WEDDELL

724.34119/1448 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

[Extract]

BUENOS AIRES, July 6, 1938—10 a. m.

[Received 12:35 p. m.]

184. From Braden. My 172, June 29, 9 p. m. . . .

Ex-belligerent delegations have promised to speed matters in an attempt to sign peace treaty on the Argentine national holiday July 9.

As now contemplated peace treaty would be signed under the auspices of and moral guarantee of the mediatory countries. It would provide: Ratification within 20 days of signature, by constitutional assembly in Bolivia and a plebiscite in Paraguay; award on the frontier line to be given 2 or 3 months after ratification; Ministers to be accredited immediately afterwards; treaties of commerce and transit to be negotiated directly through diplomatic channels; Paraguay to undertake to provide Bolivia free port privileges; non-aggression pact and mutual renunciation of war responsibilities; each reserving their respective juridical rights in the event that the treaty is not ratified.

Confidentially junior Paraguayan delegate tells me Zubizarreta will probably resign and be replaced as delegation chairman by Estigarribia. The latter will back the treaty with his full influence as will also President of Paraguay and Bishop and other civilian and military leaders. I hope Zubizarreta's opposition will be limited to his resignation and not outspoken and that it will be offset by influence of Estigarribia *et al.*

Bolivian Minister for Foreign Affairs and delegate in the presence of my colleagues expressed regret for their remarks, see my telegram 180, July 2, 3 p. m. Cordial relations are thus reestablished between us.

[Braden]  
WEDDELL

724.3419/1448 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, July 7, 1938—2 p. m.

88. For Braden from the Under Secretary. Your 184, July 6, 10 a. m. This development is most encouraging. The procedure outlined in paragraph (a) has the approval of the President. Please

telegraph immediately what statement the Department may give to the press here and the time at which such statement may be released.

HULL

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724.34119/1455 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, July 8, 1938—11 a. m.

[Received 7:50 p. m.]

187. From Braden. Please transmit full powers for me to sign peace treaty, my telegram 184, July 6, 10 a. m.

There is transmitted below text of draft treaty approved late yesterday by Bolivian Minister for Foreign Affairs and delegate and approved in principle by junior Paraguayan delegate whose preliminary objections are that in article I, third paragraph, the terminal of the line in the west must be restricted to the upper Pilcomayo; and that other points of the line must be more accurately defined insofar as possible by geographical coordinates.

After study by the remainder of the Paraguayan representatives such alterations as they desire will be presented to the Conference this afternoon. If agreement on the exact wording of the treaty can be reached, it will be initialed tonight by the Foreign Ministers of Bolivia and Paraguay; it will be submitted by telegraph to the approval of the Bolivian Government. Estigarribia and junior Paraguayan delegate will fly to Asunción with the treaty on Sunday in order to get the Paraguayan Government's approval, probably returning on Monday so the treaty can be signed on that day, Tuesday or Wednesday.

Objection (1) above presents some difficulty. Number (2) not so much; however, the Department will observe that phrasing of article on free port has been approved by both Bolivian and junior Paraguayan delegate.

Chief of Police of Asunción Bray arrived from Asunción by plane yesterday, presumably to induce Zubizarreta to withdraw his resignation telegraphed to Asunción or in any event not openly to oppose the treaty. Argentine representatives in Asunción and La Paz report telegraphically optimistic and conciliatory spirit in those capitals. The latter quotes President of Bolivia as practically anticipating thanks to Argentine Government and Argentine Minister for Foreign Affairs, nevertheless, see last paragraph my 174, June 30, 8 p. m.

Your 88, July 7, 2 p. m. Opinion of Conference is that public statements should be kept to a minimum practically until hour of signing but it is now proper to say there is agreement in principle and that signature of peace treaty is only subject to getting agreement on

details and final approval of the Bolivian and Paraguayan Governments. Text of draft treaty follows:

DRAFT TREATY OF PEACE, FRIENDSHIP AND LIMITS BETWEEN  
THE REPUBLICS OF BOLIVIA AND PARAGUAY

The Republics of Bolivia and Paraguay (Paraguay and Bolivia) with the intention of consolidating peace definitively and to put an end to the differences which gave rise to the armed conflict of the Chaco; inspired by the desire to prevent future disagreement; keeping in mind that between states forming the American community there exist historical brotherly bonds which must not disappear by divergencies or events which must be considered and solved in a spirit of reciprocal understanding and good will; in execution of the undertaking to concert the definitive peace which both republics assumed in the peace protocol of June 12, 1935 and in the protocolized act of January 21, 1936; represented:

The Republic of Bolivia by His Excellency Dr. Eduardo Diez de Medina, Minister for Foreign Affairs, Propaganda and Worship.

And the Republic of Paraguay by His Excellency Dr. Cecilio Baez, Minister for Foreign Affairs and Worship.

Present in Buenos Aires and duly authorized by their Governments have agreed to concert under the auspices and moral guarantee of the six mediatory Governments, the following definitive treaty of peace, friendship and limits:

Article I

The dividing line in the Chaco between Bolivia and Paraguay (Paraguay and Bolivia) will be that determined by the Presidents of the Republics of Argentina, Chile, United States of America, United States of Brazil, Peru, and Uruguay in their capacity as arbitrators in equity, who acting *ex aequo et bono* will give their arbitral award in accordance with this and the following clauses.

The arbitral award will fix the northern dividing line in the Chaco in the zone comprised between the line of the Peace Conference presented May 27, 1938 and the line of the Paraguayan counter-proposal presented to the consideration of the Peace Conference presented June 24, 1938, from the meridian of Fort Twenty-seventh of November i. e. meridian 61 degrees 55 minutes west of Greenwich to the eastern limit of the zone, excluding the littoral on the Paraguay River south of the mouth of the River Otuquis or Negro.

The arbitral award will likewise fix the western dividing line in the Chaco between the Pilcomayo River and the intersection of meridian 61 degrees 55 minutes west of Greenwich with the line of the award in the north referred to in the previous paragraph.

Article II

The arbitrators will pronounce, dispensing with titles of best right and juridicial briefs, according to their loyal knowledge and understanding taking into consideration the experience accumulated by the Peace Conference and the advice of the military advisers to that organization.

The six Presidents of the Republics mentioned in article I have the faculty of giving the award directly or by means of plenipotentiary delegates.

### Article III

The arbitral award will be given by the arbitrators within a maximum of two months counting from the ratification of the present treaty, obtained in the way and form stipulated in article X.

### Article IV

The award being given and the parties notified, these will immediately name a mixed commission composed of five members, two named by each party and the fifth designated by common agreement of the six mediatory Governments in order to apply on the ground and set the bournes of the dividing line given by the arbitral award.

### Article V

The award being given the Governments of Bolivia and Paraguay (Paraguay and Bolivia) will accredit their respective permanent diplomatic representatives in Asunción and La Paz (La Paz and Asunción).

### Article VI

The Republic of Paraguay guarantees the amplest free transit through its territory and especially through the zone of Puerto Casado, of merchandise arriving from abroad destined to Bolivia and of the products which issue from Bolivia to be embarked for abroad through the said zone of Puerto Casado; with the right for Bolivia to install customs agencies and construct depots and stores in the zone of the said port.

The regulations of this article will be the object of a later commercial convention between both Republics.

### Article VII

The arbitral award having been executed through the application and setting of bournes of the dividing line the Governments of Bolivia and Paraguay (Paraguay and Bolivia) will negotiate directly, Government to Government, the other economic and commercial conventions they deem proper to develop their reciprocal interests.

### Article VIII

The Republics of Bolivia and Paraguay (Paraguay and Bolivia) reciprocally renounce all action and claim deriving from the responsibilities of the war.

### Article IX

The Republics of Bolivia and Paraguay (Paraguay and Bolivia) renewing the non-aggression pact stipulated in the protocol of June 12, 1935 solemnly obligate themselves not to make war on each other nor to use force, directly or indirectly, as a means of solution of any present or future difference.

If in any event these were not resolved by direct diplomatic negotiations they obligate themselves to have recourse to the conciliatory and

arbitral procedures offered by international law and especially the American conventions and pacts.

#### Article X

The present treaty will be ratified by the National Constitutional Convention of Bolivia and by a national plebiscite in Paraguay; in both cases ratification must take place within twenty days counting from the date of signature of this treaty.

#### Article XI

The parties declare that in case ratification referred to in the preceding article were not obtained, the text and content of this treaty cannot be invoked to found upon them allegations nor proofs in future occasions or procedures of international justice.

In faith of which the representatives of Bolivia and Paraguay (Paraguay and Bolivia) together with the plenipotentiary delegates representing the mediatory countries in the Peace Conference sign and seal the present treaty in double copy at Buenos Aires on the blank day of the month of July 1938.

[Braden]  
WEDDELL

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724.34119/1456 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

[Extract]

BUENOS AIRES, July 8, 1938—8 p. m.

[Received 9 : 12 p. m.]

188. From Braden. My 187, July 8, 11 a. m. To the last paragraph of article I before [*after?*] "paragraph" insert the following: "The said line will not go on the Pilcomayo River more to the east than to Pozo Hondo, nor to the west further than any point on the line which, starting from D'Orbigny, was fixed by the Neutral Military Commission as intermediary between the maximum positions reached by the belligerent armies at the suspension of fire on June 14, 1935."

[Braden]  
WEDDELL

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724.34119/1454 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, July 9, 1938—2 p. m.

90. For Braden. Your 186, July 8, 10 a. m.<sup>53</sup> and 187, July 8, 11 a. m. The Department would like to have a precise statement regarding the

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<sup>53</sup> Not printed.

powers you desire. The Department understands that the treaty is to be signed under the auspices and moral guarantee of the six mediatory governments, as in the case of the 1935 Protocols, but that they will not be parties to the treaty and, consequently, full powers are not necessary for that purpose.

The powers and authority granted in your appointment as delegate are very broad. What is the nature of the additional authority to be issued to your colleagues who will represent the presidents in the arbitration?

HULL

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724.34119/1460 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, July 9, 1938—6 p. m.

[Received 10:15 p. m.]

191. From Braden. By intensive trading yesterday afternoon and making use of the addition quoted first paragraph my 188, July 8, 8 p. m. all major alterations to the treaty were obviated. Please correct text of the treaty as follows: Second paragraph article I, insert the word "approximately" between "i. e." and "keeping it" ["*meridian*"]. Article XI, insert "arbitration or" before "international justice".

Junior Paraguayan delegate met with Finot, Chilean delegate, and myself this morning in my rooms. He asked that the wording of article No. II of the final be amended to permit the parties to present arguments to the arbitrators should they so desire; and also to put less emphasis on the arbitrators not taking into consideration judicial titles, et cetera. Bolivian delegate is willing and the article will be so amended. The Paraguayan objection on this subject is to offset arguments Zubizarreta has said he would found on those two points.

Bolivian Minister for Foreign Affairs has telegraphed text of the treaty to La Paz and tells me he expects approval within 2 days. Estigarribia and Junior Paraguayan delegate will fly to Asunción on Monday morning to get approval and expect to be in Buenos Aires again the following day so the treaty may be signed late in the day or on Wednesday. However, there is a possibility the Paraguayan Government may give Zubizarreta a hearing when he is in Asunción Wednesday, before giving final approval. While Zubizarreta has indicated he would not openly oppose treaty he may do so anyway. He is very influential in Paraguay but I hope Estigarribia's influence added to the Government's, Army, Liberal Party and others previously mentioned, should carry the day.



Your 88, July 7, 2 p. m. Conference issued communiqué immediately after initialing ceremony at 3 a. m., today which emphasized importance of Foreign Ministers having initialed treaty of peace and limits though it is still subject to approval of Governments. Statements by the Department along this line and references to display of democratic principles involved in plebiscite would seem most appropriate until formal signature of the treaty.

It is the understanding of the Conference that regulations to be drafted subsequently will give to the fifth member of the surveying commission provided for in article IV the deciding vote in case of tie.

During the 20 days elapsing before ratification is obtained the Conference intends to send a military commission to the Chaco, particularly to determine the location of the line along the Otuquis River so that the question of Forts Galpon and Patria can be adjusted satisfactorily in the arbitral award. [Braden.]

WEDDELL

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724.84119/1367 : Telegram

*The President of the Chaco Peace Conference (Cantilo) to  
President Roosevelt*

[Translation]

BUENOS AIRES, July 10, 1938.

I have the honor to address Your Excellency to make known to you that a virtual agreement has been reached between the representatives of Bolivia and Paraguay in the sense of establishing that the boundary line between the two countries shall be determined by the Presidents of the Republics represented at the Peace Conference, thus bringing to a close arduous and lengthy negotiations that do honor both to the countries concerned and those that have contributed by their mediation toward bringing about this settlement. Article II of the draft treaty, which has already met the approval of both delegations, provides that the arbitrators shall decide according to their best knowledge and understanding, taking into account the experience accumulated by the Peace Conference and the opinions of the military advisers of the said entity, and that the six Presidents of the Republics named be empowered to make the award directly or through plenipotentiary delegates. In virtue whereof I venture to ask Your Excellency whether, in case the said treaty is signed, Your Excellency would accept the post of arbitrator as mentioned.

I avail myself [etc.]

JOSÉ MARÍA CANTILO

724.34119/1478

*The American Delegate to the Chaco Peace Conference (Braden)  
to the Secretary of State*

No. 706

BUENOS AIRES, July 11, 1938.

[Received July 19.]

SIR: I have the honor to transmit in Spanish and English translation the draft Treaty of Peace, Friendship and Limits initialed and the supplementary annex to the Treaty signed in the early morning of July 9, 1938.

Respectfully yours,

SPRUILLE BRADEN

[Enclosure—Translation]

*Draft Treaty of Peace, Friendship and Limits Between  
the Republics of Bolivia and Paraguay*

The Republics of Bolivia and Paraguay (Paraguay and Bolivia) with the intention of consolidating peace definitively and to put an end to the differences which gave rise to the armed conflict of the Chaco; inspired by the desire to prevent future disagreements; keeping in mind that between States forming the American community there exist historical brotherly bonds which must not disappear by divergencies or events which must be considered and solved in a spirit of reciprocal understanding and good will; in execution of the undertaking to concert the definitive peace which both republics assumed in the Peace Protocol of June 12, 1935 and in the Protocolized Act of January 21, 1936; represented:

The Republic of Bolivia, by His Excellency Doctor Eduardo Diez de Medina, Minister for Foreign Affairs, Propaganda and Worship, and the Republic of Paraguay by His Excellency Doctor Cecilio Baez, Minister for Foreign Affairs and Worship,

Present in Buenos Aires and duly authorized by their Governments have agreed to concert under the auspices and moral guarantee of the six mediatory Governments, the following definitive treaty of peace, friendship and limits.

*Article One.* The dividing line in the Chaco between Bolivia and Paraguay (Paraguay and Bolivia) will be that determined by the Presidents of the Republics of Argentine, Chile, United States of America, United States of Brazil, Peru and Uruguay in their capacity as arbitrators in equity, who acting *ex aequo et bono* will give their arbitral award in accordance with this and the following clauses.

The arbitral award will fix the northern dividing line in the Chaco in the zone comprised between the line of the Peace Conference presented May 27, 1938 and the line of the Paraguayan counter-proposal

presented to the consideration of the Peace Conference June 24, 1938, from the meridian of Fort 27 of November i. e., approximately meridian  $61^{\circ} 55'$  west of Greenwich to the eastern limit of the zone, excluding the littoral on the Paraguay River south of the mouth of the River Otuquis or Negro.

The arbitral award will likewise fix the western dividing line in the Chaco between the Pilcomayo River and the intersection of the meridian of Fort 27 of November, i. e., approximately  $61^{\circ} 55'$  west of Greenwich with the line of the ward in the north referred to in the previous paragraph.

The said line will not go on the Pilcomayo River more to the east than Pozo Hondo, nor to the west further than any point on the line which, starting from D'Orbigny, was fixed by the Neutral Military Commission as intermediary between the maximum positions reached by the belligerent armies at the suspension of fire on June 14, 1935.

*Article Two.* The arbitrators will pronounce, dispensing with titles of best right and juridical briefs, according to their loyal knowledge and understanding taking into consideration the experience accumulated by the Peace Conference and the advice of the Military Advisers to that organization.

The six Presidents of the Republics mentioned in Article One have the faculty of giving the award directly or by means of plenipotentiary delegates.

*Article Three.* The arbitral award will be given by the arbitrators within a maximum of two months counting from the ratification of the present treaty, obtained in the way and form stipulated in Article Ten.

*Article Four.* The award being given and the parties notified, these will immediately name a mixed commission composed of five members, two named by each party, and the fifth designated by common agreement of the six mediatory Governments in order to apply on the ground and set the bournes of the dividing line given by the arbitral award.

*Article Five.* The award being given the Governments of Bolivia and Paraguay (Paraguay and Bolivia) will accredit their respective permanent diplomatic representatives in Asunción and La Paz (La Paz and Asunción).

*Article Six.* The Republic of Paraguay guarantees the amplest free transit through its territory and especially through the zone of Puerto Casado, of merchandise arriving from abroad destined to Bolivia and of the products which issue from Bolivia to be embarked for abroad through the said zone of Puerto Casado; with the right for Bolivia to install customs agencies and construct depots and stores in the zone of the said port.

The regulations of this article will be the object of a later commercial convention between both Republics.

*Article Seven.* The arbitral award having been executed through the application and setting of bournes of the dividing line the Governments of Bolivia and Paraguay (Paraguay and Bolivia) will negotiate directly, government to government, the other economic and commercial conventions they deem proper to develop their reciprocal interests.

*Article Eight.* The Republics of Bolivia and Paraguay (Paraguay and Bolivia) reciprocally renounce all action and claim deriving from the responsibilities of the war.

*Article Nine.* The Republics of Bolivia and Paraguay (Paraguay and Bolivia) renewing the non-aggression pact stipulated in the Protocol of June 12, 1935, solemnly obligate themselves not to make war on each other nor to use force, directly or indirectly, as a means of solution of any present or future difference.

If in any event these were not resolved by direct diplomatic negotiations, they obligate themselves to have recourse to the conciliatory and arbitral procedures offered by international law and especially the American conventions and pacts.

*Article Ten.* The present treaty will be ratified by the National Constitutional Convention of Bolivia and by a national plebiscite in Paraguay; in both cases ratification must take place within twenty days counting from the date of signature of this treaty.

*Article Eleven.* The parties declare that in case ratification referred to in the preceding article were not obtained, the text and content of this treaty cannot be invoked to found upon them allegations nor proofs in future occasions or procedures of arbitration on international justice.

In faith of which the representatives of Bolivia and Paraguay (Paraguay and Bolivia) together with the plenipotentiary delegates representing the mediatory countries in the Peace Conference sign and seal the present Treaty in double copy at Buenos Aires on the blank day of the month of July, nineteen hundred and thirty-eight.

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724.341119/1467: Telegram

*The Secretary of State to the President of the Chaco Peace Conference  
(Cantilo)*

WASHINGTON, July 12, 1938.

I have been directed by the President to acknowledge the receipt of Your Excellency's telegram of July 10 in which, as President of the Peace Conference, you ask if President Roosevelt would accept the post as one of the arbitrators under Article II of the draft Treaty

of Peace, Friendship and Boundaries, which has already met the approval of the Delegations of both Bolivia and Paraguay. It has been noted that the Presidents of the six mediatory nations shall act as arbitrators and that they shall be empowered to make the award directly or through plenipotentiary delegates.

President Roosevelt has requested me to inform Your Excellency that he is pleased to accept the honor of appointment as one of the arbitrators, but in view of his manifold other duties, he has decided to delegate his functions as arbitrator to the Delegate of the United States to the Peace Conference. Appropriate instructions authorizing the Delegate of the United States to act for the President, in the event that the treaty is signed and ratified, have been telegraphed to the Delegate of the United States.

Accept [etc.]

CORDELL HULL

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724.34119/1477: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

[Extract]

BUENOS AIRES, July 18, 1938—9 p. m.

[Received July 19—1:32 a. m.]

204. From Braden.

My 187, July 18 [8], 11 a. m., second section; <sup>54</sup> my 188, July 8, 8 p. m., first paragraph; my 191, July 9, 6 p. m., first paragraph.

Following additional alterations were today accepted by Bolivian and Paraguayan Foreign Ministers and their respective delegations who will recommend acceptance to their Governments. Insert new article I as follows:

“Peace between the Republics of Paraguay and Bolivia, (Bolivia and Paraguay) is reestablished.”

New article III (old article II) first paragraph, delete first 13 [words] and substitute the following: “The arbitrators will pronounce, having heard the parties and according to”. New article VI (old article V) will read as follows: “Within thirty days after the award, the Governments of Bolivia and Paraguay, (Paraguay and Bolivia) will proceed to accredit their respective diplomatic representatives in Asunción and La Paz (La Paz and Asunción) and within ninety days will fulfill the award in its principal aspects, under the vigilance of the Peace Conference to whom the parties recognize the faculty of resolving definitely the practical questions which may arise in this connection.” New article XI (old article X) add second

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<sup>54</sup> Section 2 contained the text of the draft treaty.

sentence as follows: "Ratifications shall be exchanged in the briefest period possible in the Peace Conference."

I will telegraph any other alterations after final reading, probably tomorrow.

Both parties have accepted the treaty with these modifications and have promised to recommend acceptance to their Governments hoping to receive final approval tomorrow in which event present program is to hold plenary session late tomorrow afternoon when treaty will be read in final form and Bolivian and Paraguayan Foreign Ministers will formally record in the minutes their Governments' approval thereof and willingness to sign. Conference will then set 1 p. m., Thursday for formal signature at session to be held in the Presidential Palace and to be presided over by President of the Argentine Republic with all possible pomp. Thursday will be declared a holiday. There will be a parade of 200,000 students to be followed by special session of Congress and other demonstrations and ceremonies. It was suggested the other mediatory countries likewise declare Thursday at least a half holiday. I expressed doubt that this could be done in the United States giving as excuse President Roosevelt is on the high seas. If you think of something to do please advise me.

Text of treaty should be released 3 p. m., Thursday.

Section 1<sup>55</sup> in confidential code will not be ready until after midnight. [Braden.]

WEDDELL

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724.34119/1489 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

[Extract]

BUENOS AIRES, July 20, 1938—11 a. m.

[Received 1:25 p. m.]

206. From Braden. My 204, July 18, 9 p. m. Formal signing set for Thursday, 3 p. m. The following act was signed 3 a. m., this morning dated July 19 after reciting the place, date and names of Bolivian Minister for Foreign Affairs and delegate; Paraguayan Minister for Foreign Affairs and three delegates; Argentine Minister for Foreign Affairs and two delegates, two delegates of Brazil; and one of other mediatory Governments:

"Their Excellencies the Ministers for Foreign Affairs of Bolivia and Paraguay, after the final text of the draft Treaty of Peace, Friendship and Boundaries initialed July 9, 1938 and annexed to this act was read to them, declared in the name of their respective Governments that they gave it full and whole approval and that they

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<sup>55</sup> First two paragraphs of this telegram.

were disposed to strengthen it at the time which the Conference might determine.

In faith of which they proceeded to sign the present act, together with the delegates above mentioned."

My telegram No. 204, July 18, 9 p. m., (section 2), and my despatch No. 706, July 11th.

Due to the inserting of new article I all subsequent articles take the next higher number. References hereafter are to new numbers.

The first paragraph of the preamble is all right. Thereafter as follows:

"The Republic of Bolivia by His Excellency Dr. Eduardo Diez de Medina, Minister for Foreign Affairs, and His Excellency Dr. Enrique Finot, President of the delegation of that country to the Peace Conference;

And the Republic of Paraguay by His Excellency Dr. Cecilio Baez, Minister for Foreign Affairs; His Excellency General Jose Felix Estigarribia, President of the delegation of that country to the Peace Conference, and the delegates Their Excellencies Doctors Luis A. Riart and Efraim Cardozo;

Present in Buenos Aires, et cetera".

In title and preamble the Department's translation "boundaries" is preferable to "limits".

Article II number paragraphs following the first as A, B, and C. In paragraph A delete "presented" before "June 24".

Article III third [*second*] paragraph change tenth word to "II" instead of "I".

Article IV last word is "XI" instead of "X".

Article XII antepenult word is "or" instead of "on".

Text of treaty is public knowledge but will not be formally released to the press until 3 p. m., tomorrow.

[Braden]  
WEDDELL

724.34119/1598: Telegram

*President Roosevelt to the President of the Chaco Peace Conference  
(Cantilo)*

WASHINGTON, August 30, 1938—6:29 p. m.

I have the honor to acknowledge the receipt of your telegram dated August 29<sup>56</sup> informing me that ratifications of the Treaty of Peace, Friendship and Boundaries signed by Bolivia and Paraguay on the 21st day of July 1938 have been exchanged.

<sup>56</sup> Not printed.

I am pleased to advise you that having accepted the honor which the parties have conferred upon me in designating me arbitrator together with the Presidents of the other mediatory countries, I have decided in accordance with the faculty granted me by Article 3 of said treaty to delegate my duties as arbitrator to the Honorable Spruille Braden, Delegate of the United States to the Peace Conference, to whom I grant full power by the present telegram which I will confirm in writing, so that in my name and stead he may make the award agreed upon in the treaty signed July 21st.

I take this opportunity [etc.]

FRANKLIN D. ROOSEVELT

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724.34119/1604 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, September 2, 1938—4 p. m.

[Received September 2—3: 15 p. m.]

246. Arbitral college of the Chaco formally constituted this morning the Argentine Minister for Foreign Affairs chairman.

WEDDELL

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724.34119/1650 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, October 10, 1938—7 p. m.

[Received 7: 52 p. m.]

278. From Braden. Award made this afternoon consisting of text telegraphed my 276, October 9, 10 a. m.,<sup>58</sup> a map showing the line and minutes of the meeting, all three signed by all the arbitrators and the minutes by the parties also. [Braden.]

WEDDELL

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724.34119/1653 : Telegram

*The Secretary of State to the President of the Chaco Peace Conference (Cantilo)*

WASHINGTON, October 18, 1938.

Due to the departure from Buenos Aires of the Honorable Spruille Braden, who is to assume his duties as Minister of the United States to Colombia, my Government has decided to appoint the Honorable

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<sup>58</sup> Not printed, but for text of award and minutes, see *The Chaco Peace Conference*, annex 47, pp. 173-176. For map showing "Boundary line of the Arbitral Award of October 10, 1938," see *ibid.*, p. 198.



Alexander W. Weddell, Ambassador of the United States to Argentina, as Delegate of the United States to the Chaco Peace Conference. Ambassador Weddell's full power will be mailed in the near future. Pending the receipt of the full power, will Your Excellency, as President of the Peace Conference, be good enough to recognize Ambassador Weddell in his capacity as delegate of this Government at the Conference.

Mr. Allen Haden, Secretary to the Delegation of the United States, is to be appointed Assistant to the Delegate, in order that he may act for the Delegation of the United States during any absences of Ambassador Weddell.

In transmitting this information, I avail myself [etc.]

CORDELL HULL

724.34119/1679 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, October 29, 1938—11 a. m.

[Received 12:45 p. m.]

298. Haden attended Chaco Conference session yesterday afternoon. It was agreed yesterday that the Conference Chairman would, at the invitation of the parties, telegraph Bolivian and Paraguayan Governments requesting agreements for Vaca Chavez as Bolivian Minister to Paraguay and Justo Pastor Benitez as Paraguayan Minister to Bolivia. This paragraph repeated to Asunción and to La Paz. Both parties have named representatives to the Boundary Commission and Florit has accepted offer to be the fifth member. Haden is in touch with Finot and Cardozo to try and get on record somehow a definite statement that the neutral fifth will have the deciding vote.

WEDDELL

724.34119/1694 : Telegram

*The Chargé in Argentina (Tuck) to the Secretary of State*

BUENOS AIRES, November 22, 1938—4 p. m.

[Received 7:50 p. m.]

311. From Haden. The Peruvian delegate presented at session of the Conference this morning a draft of an act constituting the Mixed Commission. The introduction names Finot and Cardozo and "the representatives of the six mediatory countries"; mentions article V of the treaty and the fulfillment of the award on the ground by the Boundary Commission. Article I names the members from Bolivia and Paraguay and states that Florit is the fifth member "who will be president of the Mixed Commission and will exercise all the func-

tions inherent in that capacity." Article II states the Commission will meet in Buenos Aires to formulate regulations, plan of action and methods of work. Text of article III is as follows:

"In the application on the ground of the dividing line traced by the arbitral award, the member designated by the mediatory Governments and president of the Mixed Commission, will direct the debates occurring and will verify the execution of the decisions adopted.

In case of disagreement his decision will resolve definitively all the technical and practical questions on which the parties are not agreed."

Article IV requires notification to the Argentine Minister for Foreign Affairs concerning progress made, the latter to inform the parties and other mediators. Article V provides that the fifth member may be replaced by common accord of the diplomatic representatives in Buenos Aires of the mediatory Governments. Article VI permits the parties concerned to name substitutes on the Commission. Article VII declares that Bolivia and Paraguay will each pay half the total cost of the Commission. The agreement to be signed in triplicate.

Bolivian and Paraguayan delegates accepted the above described instrument ad referendum. It is hoped to sign the agreement this week due to the impending departure of Cantilo for Lima.

Please confirm that I may sign on the behalf of the United States and instruct whether any changes are desired. Redundancy of article III will probably be eliminated.

When first presented the draft included another article permitting appeal from the decision of the fifth member on all questions which either party believed altered award, to the diplomatic representatives of the mediatory Governments in Buenos Aires in meeting convoked. This article was omitted finally with the concurrence of Paraguayan and Bolivian delegations. Third article thus implies final decision by the fifth member and apparently the Paraguayan delegate is not insisting on his position reported my telegram No. 310, November 18, 9 p. m.<sup>59</sup> [Haden.]

TUCK

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724.34119/1694: Telegram

*The Secretary of State to the Chargé in Argentina (Tuck)*

WASHINGTON, November 23, 1938—5 p. m.

174. For Haden. Your 311, November 22, 4 p. m. You are authorized to sign on behalf of the delegation of the United States the act constituting the Mixed Commission.<sup>60</sup> The Department, however, is

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<sup>59</sup> Not printed.

<sup>60</sup> For text of Act of Constitution of the Mixed Commission, see *The Chaco Peace Conference*, p. 177. For subsequent acts, see *ibid.*, pp. 179 ff.

of the opinion that Article III as drafted is obscure and that it should be revised along the following lines:

“Should differences of opinion arise between the representatives of the two parties on the Mixed Commission with respect to technical and practical questions involved in the application on the ground of the dividing line traced by the arbitral award, the decision of the President of the Mixed Commission shall resolve definitively all such questions.”

HULL

TENDER OF GOOD OFFICES BY THE UNITED STATES,  
CUBA, AND MEXICO TO CONCILIATE DIFFERENCES  
BETWEEN THE DOMINICAN REPUBLIC AND HAITI <sup>1</sup>

738.39/254a : Telegram

*The Secretary of State to the Chargé in the Dominican Republic  
(Atwood)*<sup>2</sup>

WASHINGTON, January 7, 1938—7 p. m.

2. It has been learned that the Associated Press is sending a despatch stating that the Dominican Minister here has confirmed that his Government is seeking a solution to the dispute with Haiti through direct negotiations to be submitted to the Permanent Commission. Pastoriza <sup>3</sup> confirmed a previous report from "persons who claim to be well informed", which stated as follows:

"Solution of the incident between Haiti and Santo Domingo is the object of negotiations now being conducted that will lead, within a short time to complete settlement of the case, not only to solve the present difficulties, but trying to assure that in the future, no difficulties arise.

"This explains the apparent discontinuance of the proceedings which have been carried on since the Gondra Pact of 1923 and the Convention of General Conciliation of Washington, of 1929,<sup>4</sup> were invoked by Haiti as a means of placing an end to the difficulties with the Dominican Republic over the events of October, last year."

Please cable at once any information you can obtain with regard to these alleged discussions.

M. Abel Léger <sup>5</sup> and Mr. Hoffman Philip <sup>6</sup> addressed the Permanent Commission in a note dated January 6, 1937 which has as a purpose the exercise by the Permanent Commission of its conciliatory powers

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<sup>1</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 133-141.

<sup>2</sup> Sent, *mutatis mutandis*, to the Minister in Haiti, as Department's No. 3, January 7, 7 p. m.

<sup>3</sup> Andres Pastoriza, Dominican Minister in the United States.

<sup>4</sup> The Treaty between the United States and other American Republics, signed at Santiago, May 3, 1923, *Foreign Relations*, 1923, vol. i, p. 308, is known as the Gondra Treaty. This treaty was supplemented by the General Convention of Inter-American Conciliation, signed at Washington, January 5, 1929, *ibid.*, 1929, vol. i, p. 653.

<sup>5</sup> Former Haitian Minister for Foreign Affairs; Haitian member of the Commission of Inquiry before the Permanent Commission in Washington.

<sup>6</sup> Former American Ambassador in Chile; member for Haiti on the Commission of Inquiry before the Permanent Commission in Washington.

in the Haitian-Dominican dispute as provided in Article 3 of the Conciliation Convention until such time as the Commission of Investigation is constituted. The note notified the Commission of their appointment as commissioners and enclosed certified copies of their full powers, authorizing them to act in conjunction with the Permanent Commission in its conciliation functions, as well as on the *ad hoc* commission with respect to investigation and conciliation. The Haitian commissioners concluded by requesting to be informed when the Permanent Commission intended to convoke them with their Dominican colleagues for an exchange of full powers and for the opening of the labors foreseen in both Peace Instruments.

HULL

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738.39/255 : Telegram

*The Chargé in the Dominican Republic (Atwood) to the Secretary of State*

CIUDAD TRUJILLO, January 8, 1938—noon.  
[Received 4 p. m.]

2. Department's telegram No. 2, January 7, 7 p. m. The direct negotiations reported in my despatch No. 136 of December 29, 1937<sup>7</sup> were on Thursday said by Secretary of State for Foreign Affairs to be proceeding apace and he was confident that a direct settlement with Haiti would soon be made. He later qualified this assertion when he admitted that the Haitians were still asking for an indemnity of "millions" and that agreement had not as yet been reached on the amount of reparations to be paid the Haitian Government. I was informed last night by a source close to President Trujillo that the President had made a personal offer of \$300,000 to President Vincent to drop the whole controversy. If this deal is accepted by Vincent the Dominican judicial investigation of the incident . . . which has thus far resulted in arrest of about 70 vagrants and has netted no member of the Dominican armed forces, will apparently be closed.

In past 10 days President Trujillo is reported to have been recruiting 500 men to increase Dominican armed forces to 3,700 effectives. It is therefore feared that if Vincent refuses to accept the deal, Trujillo may make troop demonstrations along frontier to intimidate Haiti into acceptance.

The illness of Roberto Despradel, Dominican Commissioner to the Commission of Inquiry, appears to have been a diplomatic one as the Secretary of State for Foreign Affairs on Wednesday intimated that there was no need to incur the expense of sending Despradel

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<sup>7</sup> Not printed.

to Washington when a direct settlement of the Haitian controversy was imminent.

In a broadcast to the country at eleven this morning President Trujillo announced officially his decision not to be a candidate for reelection and nominated Dr. Jacinto B. Peynado, Vice President of the Republic, and Dr. Troncoso de la Concha, special Dominican envoy to Washington, as candidates for President and Vice President of the Republic, respectively, in the constitutional elections to be held on May 16 next. The President said, however, that he would remain in the country and retain a watchful eye over the new administration.

Repeated to Port au Prince.

ATWOOD

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738.39/256 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 8, 1938—2 p. m.

[Received 5:05 p. m.]

5. Department's No. 3, January 7, 7 p. m.<sup>8</sup> and my telephone conversation of this morning with Duggan.<sup>9</sup> I tried another approach in this matter and discussed it with the Acting Secretary of Foreign Affairs, Alfred, who is considered to be very close to the President. I described to him, as I have a number of times told the President, the dangers inherent in direct negotiations or any form of direct discussion prior to the completion of the inter-American treaty procedure by the establishment of the *ad hoc* commission.

After much circumlocution Alfred finally admitted that the Haitian delegation was "discussing" but not "negotiating" with Troncoso de la Concha; that this had been initiated by the latter who had suggested the desirability of learning what the Haitian Government had in mind for a settlement of the dispute; that the Haitian Government did not consider this as direct negotiation and would not consider any solution which was not under the aegis of the inter-American treaties. Alfred said, however, that they were anxious for a rapid and final settlement and showed clearly as I have previously reported the wish of the Haitian Government to take advantage of the conciliation function of the Permanent Commission to try to have the dispute settled immediately. Alfred expanded at some length on the fact that in accordance with the modern attitude Haiti could not expect any "forceful" protection in the event of difficulties with Santo Domingo but must rely on moral pressure which he did not seem to consider very effective.

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<sup>8</sup> See footnote 2, p. 178.

<sup>9</sup> Laurence Duggan, Chief of the Division of the American Republics.

I indicated clearly to Alfred that the conversations which he admitted were taking place were of course negotiations and that there could not be any distinction of this character. I concluded by again stressing the setting up of the commission *ad hoc* before any discussion, conversation or whatnot took place between the Haitian and Dominican representatives . . .

MAYER

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738.39/258 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 10, 1938—10 a. m.

[Received 4 p. m.]

9. After his long explanation of the Calixte resignation,<sup>10</sup> the President talked to me at length yesterday afternoon respecting the Haitian-Dominican affair.

He declared, and read me his telegrams to Washington in support, that he was not in direct negotiation with the Dominican Government. In the same breath he revealed that some days ago he had authorized the Nuncio who went to Ciudad Trujillo just before the new year to discuss the matter informally with Trujillo outlining briefly to the Nuncio the various points which Haiti desired to have in a settlement including a million-dollar indemnity. Vincent said that the Nuncio had returned recently quite optimistic claiming to have found Trujillo in general accord on all the points except the indemnity which he said Trujillo would be willing to make \$775,000. The Nuncio was returning to Ciudad Trujillo in 2 days and hoped to arrive at a basis of agreement as described which the two Presidents could initial and which Vincent would send to his delegation at Washington for submission to the Permanent Commission. Vincent stated repeatedly that the *sine qua non* of any settlement of the Haitian-Dominican affair was its sanction by the Permanent submission [*Commission?*].

Despite repeated efforts on my part I seemed unable to convince Vincent that the Nuncio's efforts were "direct negotiations". Vincent launched forth in a long explanation of what he was after, all in line with what I have frequently reported, namely, negotiations of the character now being carried on by the Nuncio, and probably here and in Washington, which would result in some rapid solution with the final blessing and under the protective aegis of the Permanent Commission.

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<sup>10</sup> Col. D. P. Calixte, former commandant of the Garde d'Haiti; see footnote 71, p. 646.

Vincent explained at length that since the inter-American treaty structure under which he was acting was primarily concerned with peace and bringing the two parties together for a solution of any difficulties it was immaterial whether such a solution was achieved by conciliation under framework of Permanent Commission or by commission *ad hoc* both of which had conciliatory functions under treaty. Vincent stressed fact that Dominican interests had not accepted competence of Commission of Inquiry; that unless he arrived at some immediate solution such as now sought through the "Christian" influence of the Nuncio, he could only fear an impasse and weeks or months of further bickering and delay. This he felt would be most disadvantageous politically in Haiti and undesirable from every point of view, implying fear of Trujillo.

I went over several times the various arguments with respect to the immediate setting up of the *ad hoc* commission, the danger for Haiti in any other course, et cetera. This seemed to make no impression on the President whether on account of his rather exhausted state or otherwise I do not know, but probably otherwise.

My guess is that it is a question of fright . . . menace and temptation, resulting in the hope that Trujillo really means what he says and is willing to come to a satisfactory settlement. I only hope it will not prove as illusory as the French loan prospect.<sup>11</sup>

MAYER

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738.39/259 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 10, 1938—2 p. m.

[Received 4:47 p. m.]

10. My telegram No. 5, January 8, 2 p. m. and 9, January 10, 10 a. m. The President sent for me this morning and referred again to the negotiations which had been proceeding with the Dominican Republic. He stated that, through the intermediary of the Apostolic Nuncio accredited to Haiti and the Dominican Republic, an exchange of views (the President used the word "notes") had taken place between the two Governments, and he handed me a draft of a proposed agreement which the Nuncio believes will be accepted by Trujillo and which he is taking to Trujillo tomorrow. I understand that this draft, having been prepared by him and the Nuncio on the basis of the two notes is acceptable to President Vincent. Text of draft will be forwarded by airplane tomorrow.

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<sup>11</sup> See pp. 602 ff.



Meanwhile, the following is a summary: Preamble states that the two Governments wish to end the differences arising out of regrettable incidents of October last. The Dominican Government has already shown that it deplores the incidents, has proceeded to an official investigation and wishes to give complete satisfaction to the Haitian Government in order that the good relations between the two countries may be maintained. The Dominican Republic wishes to liquidate and end definitely all claims which the Haitian Government or Haitians may initiate against the Dominican Government. The two Governments also wish, by means of this agreement, to prevent a recurrence of these regrettable incidents.

By reason of these motives the Dominican Government expresses its regrets and renews its disapproval of the incidents, gives to the Haitian Government most complete assurances that the judicial investigation which has been initiated will be pursued efficiently and rapidly and that sanctions will be applied against those found guilty under Dominican law. The Dominican Government will satisfy the Haitian Government with regard to publicity to be given the condemnations and punishment of those found guilty in conformity with Dominican law.

The Dominican Government agrees to pay \$750,000 to Haiti, \$350,000 payable on signature of accord—the rest in yearly installments. The Haitian Government will use this sum according to its own judgment, in the best interests of the sufferers and their families.

The Dominican Government will legally replace all those against whom Haitians may have rights or claims as a result of the incidents, and it will collect for its own benefit all the sums which those responsible for the incidents may be condemned to pay. Haitian property owners in the Dominican Republic will be protected in their property rights. Haitians and Dominicans residing in the other country will receive reciprocal protection. Immigration between the two countries will be regulated by a special agreement to be worked up in the near future. An agreement will also be reached limiting armaments of the two countries in accordance with their need for internal security.

The agreement will be transmitted by the two Governments to their respective delegates at Washington in order that it may be submitted to the Permanent Commission. The agreement will be signed by the delegates before the Commission, and will be inserted in full in the report of the procedure of the Commission on conciliation functions.

At the President's request, I read the text of this draft in his presence, but confined my comment only to saying that the document was "interesting." I again took the occasion to warn the President of the dangers inherent in direct negotiations between the two countries.

MAYER

738.39/260

*Memorandum of Conversation, by Mr. Selden Chapin of the Division  
of the American Republics*

[WASHINGTON,] January 10, 1938.

Mr. Hoffman Philip called me this morning to say that he had received some information of interest from Abel Léger with regard to the settlement of the Haitian-Dominican dispute. Accordingly, as he was going out for lunch I went to the Metropolitan Club for a conversation with him.

Mr. Philip said that prior to the departure of Monsieur Léger and his associates, Monsieur Dantés Belgarde, and Monsieur Manigat, from Haiti they had drawn up a précis on the conference setting forth the circumstances of the massacres and deportations with a digest of the sworn statements, et cetera. The précis concluded with a summary of demands which the Haitian Government considered must be met by the Dominican Government in order to arrive at a satisfactory settlement. Among these demands were a cash indemnity of \$1,500,000, an expression of regret from President Trujillo, a determination of those Dominicans responsible for the outrages with publication of their names and the punishments awarded, and guarantees for the future safety of Haitian life and property on Dominican soil.

Mr. Philip said that Léger informed him yesterday that he had received a cable from President Vincent explaining that when the Nuncio had approached President Vincent with an offer to be of service to him in composing the difficulties between the two nations and had inquired upon what basis President Vincent was prepared to effect a settlement, President Vincent had shown the Nuncio the last part of the précis setting forth the Haitian demands.

The Nuncio had taken note of these demands and had then proceeded to Ciudad Trujillo where he had conferred with the Dominican authorities, including presumably President Trujillo. On his return to Port-au-Prince the Nuncio informed President Vincent that Trujillo stood ready to grant most of these Haitian demands with certain slight modifications as regards a guarantee for the future safety of Haitian lives and property. President Trujillo, however, stated that he was unable to pay \$1,500,000 as demanded but offered instead a cash settlement of \$750,000. Almost immediately after the Nuncio had delivered these terms, a cable was received from President Trujillo to the effect that he could only pay in cash at the present time \$150,000, but that he was willing to obligate himself to pay the balance, \$600,000, in installments over a six-year period.

Monsieur Léger informed Mr. Philip that this news had only just been received from President Vincent who had stated in his cable that he was to see Mr. Mayer Sunday and would explain the whole matter to him. While I have no reason to doubt this last statement of Monsieur Léger I may point out in this connection that on Friday afternoon when Monsieur Léger and Monsieur Lescot called to see Mr. Duggan, Léger asked me to give him my personal opinion as to the feasibility in the event that an eventual Dominican indemnity should be paid in installments, of stipulating that these installments be made payable to the Pan American Union for transfer to the Haitian Government. In reply I stated that perhaps it would be best to sound out the Director of the Pan American Union before making such a stipulation but that at first hand I could see no objection if the settlement was indeed to be effected in conjunction with the Permanent Commission, to stipulate that the payments, if accepted, should be made payable to the Chairman of the Permanent Commission.

S[ELDEN] C[HAPIN]

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738.39/264

*Memorandum of Conversation, by the Secretary of State*

[WASHINGTON,] January 11, 1938.

Dr. Troncoso de la Concha, Special Envoy of the Dominican Republic to the United States in connection with the settlement of the Haitian-Dominican controversy, in company with the Dominican Minister, came in to pay his respects and to deliver a very cordial message from President Trujillo of greeting and good will, and of cooperation in every way to promote Pan Americanism and peace. I thanked him in appropriate terms and reciprocated the sentiments expressed.

C[ORDELL] H[ULL]

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738.39/291

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] January 12, 1938.

The Ambassador of Peru came to see me this morning primarily to inform me that the Government of Peru had fixed December 9, 1938 as the date for the opening of the Inter American Conference.<sup>12</sup>

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<sup>12</sup> See pp. 1 ff.

I told the Ambassador that as he already knew any date which was agreeable to the Peruvian Government would be entirely acceptable to this Government.

The Ambassador then discussed briefly the Haitian-Dominican controversy and the duties of the Permanent Commission of which he is a member. He said that he did not feel that the Permanent Commission should assume any responsibility for the terms of any agreement which might be reached between Haiti and the Dominican Republic and that in that he disagreed with the Guatemalan Minister who was the Chairman of the Commission. I remarked that my own understanding of the problem was that while the Haitian Government was willing to reach a prompt settlement with the Dominican Government, it nevertheless believed that unless this settlement was formally reached under the auspices of the Permanent Commission it would not be worth the paper it was written on because the Dominican Government would not live up to any of the commitments it made therein and that the desire of the Haitian Government was to have the Permanent Commission exercise its conciliatory functions as a result of which a direct agreement would be made and that then the Permanent Commission could officially take notice of the agreement reached and announce that in view of the fact that an agreement had been reached the controversy was now ended. The Ambassador said that if this was the case it would be entirely satisfactory with him but that he did not feel that the Commission should take any responsibility for the terms of the agreement when the members of the Commission were not in a position which would really enable them to pass upon the merits of the controversy. I remarked that it seemed to me that his point of view was very well taken but that of course the questions involved would have to be determined by the members of the Permanent Commission and that it seemed to me unwise for this Government to express any opinion with regard to the procedure adopted.

The Ambassador then said that, as I knew, Dr. Concha, his Foreign Minister, was a very warm personal friend of mine who had complete confidence in the impartiality of this Government with regard to the pending Ecuadoran-Peruvian boundary dispute;<sup>13</sup> that when Dr. Concha had recently become Foreign Minister he had instructed Dr. Tudela, the head of the Peruvian delegation in Washington,<sup>14</sup> to keep me advised of the progress made in the boundary negotiations. I said that I was very happy to know that this was the case and that I had had a very interesting conversation with Dr. Tudela when the latter

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<sup>13</sup> See pp. 217 ff.

<sup>14</sup> Francisco Tudela y Varela, Chairman of the Peruvian delegation to the Washington conferences for the arbitration of the boundary dispute between Ecuador and Peru.

had called some ten days ago to tell me of the course he intended to pursue in these negotiations. The Ambassador said that since I knew Dr. Concha's attitude I would understand that he was not expressing any personal disquiet in a cable which he had sent the Ambassador a few days ago remarking upon press despatches which had come from Washington relating that the delegates of Ecuador had come to see me twice last week and had discussed the boundary negotiations. The Ambassador said that apparently a great deal of prominence had been given in the Peruvian press to these reports and that Dr. Concha had asked him to inquire of me the nature of these conversations.

I told the Ambassador that I was not only most happy to tell him of the conversations but that I only regretted that he and Dr. Concha had not been in the room at the time. I said that Dr. Viteri<sup>15</sup> had called to see me solely in order to tell me that he was now very optimistic as to the way in which the negotiations were proceeding; that he felt that the personal talks which he was having with Dr. Tudela were the only practical way of handling the negotiations and that he was now convinced for the first time that the Peruvian Government really desired to reach a satisfactory settlement through these negotiations. I said to the Ambassador that the only reason why these gentlemen had come to see me twice was that the first time they called I was very much pressed for time and that since, as the Ambassador knew, Dr. Viteri was a gentleman who talked at very considerable length, what he wanted to tell me had to be in two conversations instead of in one. I added that I wished that he would tell Dr. Concha exactly what I had said and that I regretted the press publicity given to these visits but that it was difficult for me, under our system, to avoid it. In conclusion I said that the attitude of this Government was perfectly well known to the Peruvian Government, namely that it was taking no part whatever in the conversations but that if either side wanted to tell us what was going on we could hardly avoid, as their host and as an impartial friend of both, listening to what they cared to say.

The Ambassador said he fully realized the circumstances and that he knew beforehand that this was what I would say. He said he was only afraid of undue publicity in Lima and that he thought that Dr. Concha might prevent the Peruvian press from giving exaggerated importance to something which had no importance in principle.

S[UMNER] W[ELLES]

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<sup>15</sup> Homero Viteri Lafronte, Chairman of the Ecuadoran delegation to the Washington conferences for the arbitration of the boundary dispute between Ecuador and Peru.

738.39/263 : Telegram

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

CIUDAD TRUJILLO, January 12, 1938—4 p. m.

[Received 6:05 p. m.]

5. Legation's telegram No. 2, January 8, noon. The Foreign Minister informed me this morning that Despradel is proceeding to Washington at once. He said that the direct negotiations conducted in Washington between Abel Léger and Troncoso de la Concha were progressing toward an agreement on the indemnity to be paid by the Dominican Government. He hoped therefore that it would be possible shortly to report to the Permanent Commission that a solution satisfactory to Haiti had been found.

The Foreign Minister characterized as false the report that 500 men have been recruited for the Dominican Army but admitted that an increase of the reserve force was contemplated which would bring the total number of effectives to 4,000.

Repeated to Port-au-Prince.

NORWEB

738.39/270

*Memorandum of Conversation, by the Chief of the Division of the American Republics (Duggan)*

[WASHINGTON,] January 13, 1938.

Mr. Philip said that he had just come from a conversation with M. Abel Léger. M. Léger received this morning a letter from the President in which the President informed him that he had requested the Papal Nuncio to return to Ciudad Trujillo with the following counter-proposal to the Dominican offer: That Haiti would agree to a settlement of the dispute on the agreement that the Dominican Government should pay \$750,000—\$350,000 to be paid down and the remainder at the rate of \$100,000 a year until extinguished. The Haitian Government also would require that the settlement be accompanied by the return in good condition of all properties of Haitians in the Dominican Republic that had been expropriated; by assurances with regard to the observance of Haitian rights in the Dominican Republic in the future, and by suitable guarantees covering the regulation and safety of Haitian labor in the Dominican Republic.

M. Léger stated that the President had indicated his apprehension with regard to future political developments if the dispute was not

settled rapidly. Therefore, M. Léger expressed the belief that once an arrangement had been arrived at as a result of direct discussions it should be presented to the Permanent Commission, which taking note of it should declare the controversy at an end.

Mr. Philip stated that he had argued the point with M. Léger as a result of discussions that he had had with members of the Permanent Commission. The Argentine Ambassador in particular felt that it would be a mistake for the Permanent Commission to assume any responsibility for the terms of any agreement that might be arrived at outside of the treaty framework. He suggested that if an outside agreement were arrived at, it be submitted to the Commission of Inquiry which would return it to the Permanent Commission, which would then be in a position to declare the controversy terminated. Mr. Philip said that M. Léger proposed this procedure because of his belief that the Dominican Government would most reluctantly and after great delays agree to the composition of the Permanent Commission, since they seemed to fear trickery if the outside settlement were submitted to the Commission of Inquiry.

Mr. Philip and I had some discussion of this aspect of the matter but arrived at no definite conclusion. Having just read Mr. Welles' memorandum of his conversation with the Ambassador of Peru on January 12 I took the line that there would seem to be no objection to the Permanent Commission merely taking notice of the agreement reached and of announcing the termination of the controversy in view of that agreement.

Mr. Philip also stated that the members of the Permanent Commission were arguing that the proceedings of the 1929 Conference<sup>16</sup> made it clear that even though requested by one of the parties to exercise conciliatory functions the Permanent Commission should not do so unless imminent danger to the peace of the continent threatened.

With regard to the last point made above, Mr. Kelchner<sup>17</sup> has studied the proceedings of the 1929 Conference. Mr. Kelchner believes that the proceedings made it very clear that the drafters envisaged two categories: one in which a disputant requests the Permanent Commission to act, and the other in which the Permanent Commission functions on its own initiative. In the latter case there is the limitation that the Commission can function only at a time when there is a threat to the peace of the continent. On the other hand, when one of the disputants requests the Permanent Commission to function there would appear to be no such limitations. It was the consensus of the Con-

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<sup>16</sup> See *Proceedings of the International Conference of American States on Conciliation and Arbitration, Held at Washington, December 10, 1928-January 5, 1929* (Washington, Government Printing Office, 1929).

<sup>17</sup> Warren Kelchner, secretary-general to American delegation, Eighth International Conference of American States, Lima, 1938.

ference that there should be some protection against undue delay by a disputant in constituting the *ad hoc* commission and hence the provision was made that the Permanent Commission could exercise conciliatory functions, without limitation, in case of a request by one party.

In the present case it must be kept in mind that there is little doubt that the Dominican Government has sought to delay the establishment of the Commission of Conciliation while Haiti on the other hand has weakened its position through entering into direct negotiations in spite of specific assurances to the contrary. Irrespective of the terminology used by the two Governments it cannot be denied that the proposed settlement is in effect a settlement by direct diplomatic negotiations.

Under these circumstances it would seem that the Permanent Commission cannot appropriately assume any responsibility for the terms of the proposed accord. While for obvious reasons the Permanent Commission would not wish to disapprove the settlement it would seem that approval by the Commission would give the Commission's support to a violation of solemn treaty obligations, irrespective of the merits of the positions of the parties in dispute,—thereby weakening the whole peace structure of the Americas.

It is our opinion that the best procedure under the circumstances would be for the Permanent Commission to receive from the delegates notification of the direct settlement reached and to take cognizance of such settlement. The Permanent Commission might limit its action to taking note formally of this direct settlement between the disputants and to a statement that in view of this settlement no controversy between the disputants appears longer to exist.

L[AURENCE] D[UGGAN]

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738.39/276

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

No. 164

CIUDAD TRUJILLO, January 17, 1938.

[Received January 20.]

SIR: I have the honor to inform the Department that when I called this morning to pay my respects to President Trujillo he confirmed with considerable emphasis the opinions expressed to Secretary Hull on January 11 by the Counselor of the Dominican Legation at Washington, Lcdo. Cruz Ayala.

President Trujillo began the interview by reading me an extensive letter from Lcdo. Cruz Ayala reporting his recent conversation with Secretary Hull. According to this communication, the Secretary had



indicated his confidence that President Trujillo in common with other American statesmen, saw the imperative necessity for all the American nations to work loyally together to insure the observance of the treaties for the preservation of peace in the Western Hemisphere. Cruz Ayala wrote that he had in the name of the President expressed his complete agreement with this view and pledged that the Dominican Government would at all times conform its international policies to the provisions of the treaties to which it was a party.

President Trujillo told me that he ratified in every particular the statement of Lcdo. Cruz Ayala to Mr. Hull and that in the settlement of the present difficulty with Haiti he could give me full assurance that Dominican obligations under the treaties of conciliation would be observed.

The President told me that he was hopeful that a solution to the difficulty would soon be forthcoming and said that he thought the negotiations were progressing favorably in Washington. He added, however, that the Haitian problem was a fundamental one for his Government but doubted if any permanently satisfactory solution of it could be found in view of the factors of population, race and territory which make for continual irritation of feeling between the two countries.

For my part I expressed my gratification that the President through his emissary in Washington had indicated his sincere intention to cooperate with the other American nations for the observance of the peace treaties and my pleasure that according to his statement the negotiations within the scope of the conciliation treaties were progressing satisfactorily.

As the Department is aware from Despatch no. 35 of January 11, 1938 from the Legation at Port-au-Prince,<sup>18</sup> conversations between Haitian and Dominican spokesmen are not only being conducted at Washington, but locally the Papal Nuncio is seeking to be the intermediary between the two Governments for a direct settlement. The Nuncio arrived here on January 12 by the same airplane which brought Lcdo. Arturo Despradel, the Legal Adviser to the Executive Power, who last month was sent to Haiti in an attempt to secure the re-opening of direct negotiations between the two Governments. As indicated by the Legation in Port-au-Prince, the Nuncio brought with him the very comprehensive draft of a proposed agreement for the settlement of the controversy.

In examining the text of this draft the Legation has noted that the Haitian Government seeks an indemnity of \$750,000 payable in the period 1938-1942. From a banking source close to President Tru-

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<sup>18</sup> Not printed.

jillo it is learned that the President has apparently agreed to the payment of such a figure. The same informant said that the President could, if he desired, pay that amount in one lump sum from his own personal funds; a statement more an indication of the President's wealth than that payment will be made in such a manner.

I am not yet in a position definitely to report to the Department the Dominican reaction to the Haitian draft as proposed by the Nuncio. Conversations have gone ahead since his arrival, and he is returning by air to Port-au-Prince tomorrow, presumably with the counter-proposals of the Dominican Government. The Foreign Secretary told me on the 15th that all channels which might lead to a settlement were being actively explored and that none which conduced to agreement would be ignored. There is a possibility, therefore, that the Legation will be able to report definite developments resulting from the Nuncio's visit within a few days.

Whatever the agency of settlement employed, there does appear to be ground for the hope that a solution of the present difficulty will presently be found, although it is realized, as President Trujillo said, that the fundamental problem with Haiti is of a more basic and enduring character, founded upon economic and sociological factors which can not be exorcised by the payment of indemnities or promises of good behavior. So long as two-thirds of the population of this island inhabit one-third of the territory there will be pressure upon the Dominican-Haitian frontier and with such pressure, trouble.

Respectfully yours,

R. HENRY NORWEB

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738.39/289

*Memorandum by the Chief of the Division of the American Republics  
(Duggan)*

[WASHINGTON,] January 18, 1938.

Mr. Philip informed me that there has been the following developments at the meeting at the Pan American Union held before the Permanent Commission of the Haitian-Dominican representatives on the Commission of Inquiry:

- 1) The Dominican delegation expressed its willingness to proceed with conciliation proceedings before the Permanent Commission.
- 2) The Permanent Commission thereupon suggested that the proper procedure seemed to be the election of the fifth member to the Commission of Inquiry;
- 3) The Dominican delegation then stated that it had instructions to endeavor to reach a solution through conciliation before proceeding to the selection of the fifth member of the Commission of Inquiry;

4) The Haitian delegation (M. Léger) then stated the procedure suggested by the Dominican delegation was agreeable to the Haitian delegation. (Afterwards M. Léger informed Mr. Philip that he had received a communication from President Vincent instructing him not to press for the nomination of the fifth member. President Vincent stated that what he desires is a solution and not a long drawn out proceeding through the Commission of Inquiry).

5) The Permanent Commission stated that if an agreement were reached through direct negotiations it should be submitted by the two delegations to the Permanent Commission.

6) It was agreed that the next meeting before the Permanent Commission should take place on January 31. This date was selected, since the Haitian delegation had instructions that President Vincent desired a period of seven to eight days in which to carry on his direct negotiations with the Dominican Government.

L[AURENCE] D[UGGAN]

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738.39/285

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

No. 166

CIUDAD TRUJILLO, January 19, 1938.  
[Received January 24.]

SIR: I have the honor to report that in the course of my regular weekly call on the Foreign Minister this morning, he had occasion to speak for the first time of the efforts of the Papal Nuncio towards a settlement of the Dominican-Haitian controversy. It seemed to be Mr. Ortega Frier's purpose to make it clear that these exchanges were complementary to the discussions now taking place in Washington; that while the Nuncio was acting as intermediary between the two Presidents, the Gondra Treaty procedure was still the cornerstone for the negotiations between the two Governments and every phase of the Nuncio's participation was being reported to the Special Representatives of the two countries in Washington. He again expressed confidence that satisfactory progress was being made and indicated that if the Haitians were willing to accept "a transactional settlement" based on the payment of an indemnity to be distributed among the victims he felt that this would not be difficult to reach. However, should the Haitian Government insist on the question of responsibility, the Dominican representatives have no instructions to discuss this phase pending the termination of the juridical investigation. In concluding the Minister again assured me that the discussions in Washington and the Nuncio's activities were all related; that there

was no danger of working at cross purposes and that should it seem desirable for him to go to Washington, he was authorized by the President to make the trip if in doing so he could expedite a satisfactory settlement.

Respectfully yours,

R. HENRY NORWEB

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738.39/277 : Telegram

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

CIUDAD TRUJILLO, January 20, 1938—2 p. m.

[Received 5:10 p. m.]

7. Legation's despatch 164.<sup>19</sup> The Foreign Minister informed me this morning that the indemnity has been fixed at \$750,000 and there is now no serious disagreement between the Haitian and Dominican Governments except on articles 6 and 9 of the Nuncio's draft. The Dominican Government feels article 6 should not confirm squatters' rights for returning Haitian refugees and that article 9 should permit armaments for external as well as internal security. The Foreign Minister was nevertheless optimistic as a result of the Nuncio's negotiations and reports from Washington and thought a definite agreement would shortly be reported to the Permanent Commission for incorporation in a protocol of settlement.

NORWEB

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738.39/278 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 20, 1938—2 p. m.

[Received 6:18 p. m.]

21. My telegram No. 10, January 10, 2 p. m. and my despatch No. 40 of January 17.<sup>20</sup> The Minister for Foreign Affairs states that Trujillo has made a counterproposal which he has initialed. Léger said that the two Governments were in accord on the major points, Trujillo agreeing to a \$750,000 indemnity or \$250,000 cash down.

The Dominican Government wishes to include in the settlement a detailed arrangement regarding immigration. Léger feels that it is necessary to give a matter of this importance more consideration than permitted by the present negotiations for the Haitian-Dominican affair. Léger, however, is agreeable to statement of general princi-

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<sup>19</sup> January 17, p. 190.

<sup>20</sup> Despatch not printed.

ples with regard to immigration which the Haitian Government will gladly follow up shortly with a detailed agreement.

Léger also said that he and the President intended to stand firmly on the condition that whatever understanding resulted from the present informal negotiations now being carried on by the Nuncio (he is expected back today via Dominican military plane), it should be understood that the definite and final agreement would have to be arrived at in Washington and under the aegis of the Permanent Commission. Léger envisages that if the two Presidents come to an understanding, as he expects will be the case any day, this will be forwarded in draft form to the two delegations in Washington which will then submit the same to the Permanent Commission.

Léger also stated that the Dominican Minister of Foreign Affairs hopes to leave shortly for Washington to participate in the final negotiations. President Vincent suggested to Léger that he also go to Washington but Léger felt that he was more needed here to which the President agreed.

Repeated to Ciudad Trujillo.

MAYER

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738.39/280 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 22, 1938—1 p. m.

[Received 3:10 p. m.]

23. My 21, January 20, 2 p. m. Léger informs me that after long negotiations here yesterday the two Governments are in agreement except for the one question of immigration—repatriation (see second paragraph my telegram under reference). Léger hopes that Trujillo will agree to his proposal in this respect and that the draft arrangement can be forwarded to Washington by tomorrow's air mail and be submitted to the Permanent Commission early in the week. Repeated to Santo Domingo.

MAYER

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738.39/281 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 22, 1938—2 p. m.

[Received 3:10 p. m.]

24. My telegram No. 23, January 22, 1 p. m. Am informed full accord reached here. Repeated to Santo Domingo.

MAYER

738.39/283 : Telegram

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

CIUDAD TRUJILLO, January 24, 1938—10 a. m.

[Received 11:02 a. m.]

8. Telegrams 23, and 24 of American Legation at Port-au-Prince. The Foreign Minister has confirmed the report that a basis for agreement has been reached and will be submitted Permanent Commission. Repeated to Port-au-Prince.

NORWEB

738.39/286 : Telegram

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

CIUDAD TRUJILLO, January 24, 1938—4 p. m.

[Received 4:40 p. m.]

9. Legation's despatch 116 [166], January 19. The Foreign Minister is leaving for Washington by air January 28.

Repeated to Port-au-Prince.

NORWEB

738.39/317

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

[Extracts]

No. 194

CIUDAD TRUJILLO, February 9, 1938.

[Received February 14.]

SIR: Now that a Protocol of Settlement has been signed by the representatives of Haiti and the Dominican Republic,<sup>21</sup> terminating the controversy which arose as the result of the tragic massacres of last October, I have the honor to submit to the Department certain observations in retrospect which I feel, for the Legation at least, will be of value in deriving certain lessons from the negotiations thus brought to conclusion.

. . . The action of Haiti in requesting the good offices of Cuba, Mexico and the United States on November 12 made the matter

<sup>21</sup> Signed at Washington, January 31, 1938; for exchange of messages by President Roosevelt and the Presidents of Haiti and the Dominican Republic, see Department of State, *Press Releases*, February 12, 1938, pp. 229-232.

squarely a test of that will for peace which found concrete expression at the Buenos Aires Conference in December 1936. Thus the main line of the Legation's diplomacy early became established by conditions beyond its control; the appeal of Haiti for good offices and the prompt action upon that appeal made by the Governments of Cuba, Mexico and the United States.

The Legation, accordingly, on November 15, strongly impressed upon President Trujillo the necessity for securing a settlement of the controversy within the spirit of the American peace treaties. From this principal thesis the Legation did not depart in subsequent discussions with the Dominican Government.

Two pressures, however, at last forced the Dominican Government into a settlement of the controversy against its will. The first of these was the world press, which gave with considerable accuracy of detail a dramatic picture of the savage mass murders which had caused the dispute and enlisted the sympathy of outside nations with the injured party to the controversy. The second pressure exerted was probably not of such immediate moment to the Dominican Government but without it it is doubtful if adverse publicity alone could have compelled President Trujillo to accede to a settlement. This force was the practically unanimous will among the nations of the Western Hemisphere that international disputes should have peaceful settlement. Its unvarying application by the United States and the other interested Governments was a contributing if indirect factor in forcing the compromise of the dispute within the framework of the Gondra Pact and the 1929 Treaty of Inter-American Conciliation.

While analysing these pressures it must be recognized, however, that the actual instrument of settlement was not the Permanent Commission of the Gondra Treaty sitting in Washington nor the American Governments invoking the various instruments for the settlement of international difficulties, but was the diplomacy of the Vatican.

Due most probably to the considerable influence upon President Trujillo of the Archbishop of Santo Domingo, Monsignor Richard Pittini, and to the strong interest in the dispute of the Papal Nuncio to both countries, Monsignor Silvani, the Church offered the two Governments a means for meeting on common ground; and the final protocol signed at Washington was none other than the instrument drafted by the Papal Nuncio a fortnight before.

This participation of the Nuncio in the settlement was due more to force of circumstances than to deliberate policy on the part of the Holy See. Previously, in early November, the Nuncio had attempted to mediate in the dispute and had been rebuffed. It was only when President Trujillo under the unremitting pressure of the moral force

which found expression in the peace treaties realized that some form of settlement would have to be offered, that he found in the Legation of the Vatican an exit which would give him that settlement by direct negotiation which had been all along the principal object of his Government. It is indisputable in my mind that had not the treaties been invoked and their moral force applied President Trujillo would have followed the line so clearly indicated by his representatives from October through December: an insistence that the joint communiqué of October 15<sup>22</sup> settled the controversy and that consequently no difference with Haiti existed.

Accordingly, while I know of no recent instance in the diplomatic history of the American Republics in which Vatican diplomacy has been availed of for the appeasement of international differences, I feel that this present case must be judged in the light of the special circumstances attendant, and that in many respects it was a local phenomenon. At the same time the participation of the Holy See in an American diplomatic controversy will no doubt attract the continued interest of the Department.

I would add in this respect that the Dominican Government and press have made no reference to the assistance of the Papal Nuncio in bringing both parties together, and that on the contrary the settlement has been played up as an example of Dominican fidelity to the principles of inter-American solidarity in behalf of peace.

As for the lessons which may come from the negotiations now terminated, it is my feeling that the Legation should earlier have foreseen that the nature of the controversy was such as to make exceedingly difficult the chances for success of the conciliatory processes established by the American peace treaties. Had the Legation sooner informed the Department of the practical impossibility of the Dominican Government willingly accepting any conciliatory machinery, it may have been that the friendly Governments would not so quickly have tendered good offices and that it might have been possible to work out a direct arrangement between the two countries through diplomatic channels. Once the treaties were invoked, however, and mediation was offered, as has been seen the Dominican Government tried every means of escape from the treaty forces which were brought into play.

I recognize, of course, that the internal situation in Haiti was precarious, and that quick action was essential lest conditions in that country become chaotic, which would have greatly lessened the prospects for a peaceful arrangement of the difficulties with the Dominican Republic. Notwithstanding this evident fact, it was argued in the

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<sup>22</sup> República Dominicana, Secretaría de Estado de Relaciones Exteriores, *Memoria de Relaciones Exteriores de 1937* (Imprenta Listin Diario, Ciudad Trujillo, R. D., 1938), p. 66.



Dominican Republic that, to preserve domestic stability in one country, the friendly powers threatened to disturb it in the other.

My only observation in this regard is that in future it might be even more effective if, before calling into play the American peace accords, more time could be devoted to a diplomatic preparation of the ground.

As for the specific case for which a transactional settlement has just been found, I feel that the Protocol signed at Washington was a good arrangement under the circumstances. The Dominican Government had the satisfaction of achieving a settlement by direct negotiations, the Haitian Government received a substantial indemnity and prompt action with which to appease popular feeling at home, and the community of American nations saw that the spirit of the peace treaties was an active force. Beyond doubt the greatest value from the wider point of view was this; that the peace treaties had been called into play in a serious dispute and had not been found wanting. Such a demonstration establishes a precedent in the right direction.

I regret that in respect of the basic Haitian-Dominican problem I can not be sanguine. The Protocol of Settlement promises some progress for adjusting certain mutual problems, such as armaments and immigration. On the latter question, so long as the present Foreign Secretary is in office, the Legation would anticipate that a strong line will be followed in accordance with Mr. Ortega's view that persons of African blood, especially from Haiti, are undesirable aliens and threaten to extinguish the "neo-white" civilization in the eastern areas of Hispaniola. While owing to the needs of the sugar industry Haitian contract cane cutters may be admitted annually for the sugar season and carefully returned to the other side of the frontier at the end of their employment, there is no doubt that the infiltration of Haitian migrants to Dominican territory will be sternly repressed.

The old problem therefore persists. So long as one third of the island holds two thirds of the population there will be pressure upon the frontier and with that pressure, trouble. There is no solution for that problem other than birth control or industrialization in Haiti—both outside the realm of probability—or immigration of surplus elements of the Haitian population. Such elements are now being deported from Cuba, and the Dominican frontier, shielding a sparsely settled territory, is closed. A crisis will eventually come in Haiti, and at that time the ancient enmity will awake between the two peoples. Wergild and bloodwight have been paid, but the settlement was well termed "transactional".

Respectfully yours,

R. HENRY NORWEB

738.39/328

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

No. 214

CIUDAD TRUJILLO, February 23, 1938.

[Received February 28.]

SIR: I have the honor to confirm my telegram No. 14 of 11 a. m.<sup>23</sup> this morning, informing the Department that the Dominican Government proposes to pay the first installment of \$250,000 on the indemnity to Haiti at Port-au-Prince on Saturday February 26.

Following the refusal of the home office of the National City Bank of New York to approve the request for a loan made by the Dominican Government last week, as outlined in my despatch No. 203 of February 17,<sup>23</sup> President Trujillo transferred \$250,000 from his checking account in the local branch of the National City Bank to . . . the Sociedad Bancaria, which in turn purchased a draft on New York in the amount of the indemnity, payable to the order of the Haitian Government. The Foreign Minister informed me this morning that the draft will go by air mail at once to Port-au-Prince and will be delivered by the Dominican Minister there on Saturday morning.

With this monetary fulfillment of the provisions of the Protocol of Settlement of January 31, I am pleased to report that the Dominican Government is also carrying out the other provisions of that treaty. I enclose with this despatch a copy, with translation, of a hand bill which is now being circulated among Dominican residents on the Haitian frontier over the signature of President Trujillo. This proclamation strictly enjoins Dominican residents to refrain from disputes with persons of Haitian nationality and to have recourse to judicial tribunals instead of direct action in the event of trouble. Inhabitants of the border regions are informed by this public notice that the Dominican Government will enforce by every means in its power its resolve to prevent the illegal entry of Haitian nationals into Dominican territory and the penetration of Dominican nationals into Haitian territory.

With the prompt carrying into effect of the provisions of the Protocol of Settlement of January 31, it is my feeling that peace will for a time prevail on the Haitian-Dominican frontier.

Respectfully yours,

R. HENRY NORWEB

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<sup>23</sup> Not printed.

738.39/325 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, February 26, 1938—2 p. m.

[Received 2:55 p. m.]

31. Fiscal representative informs me that check for \$250,000 made out to order of the Government of the Republic of Haiti at the National City Bank of New York and endorsed by Mr. George Léger, has been handed to him for deposit, representing the first payment by Dominican Republic to Haitian Government in accordance with agreement of January 31st.

MAYER

DISPUTE BETWEEN GUATEMALA AND THE  
UNITED KINGDOM<sup>1</sup>

714.44A15/80

*The Minister in Guatemala (Des Portes) to the Secretary of State*

No. 534

GUATEMALA, March 16, 1938.

[Received March 22.]

SIR: I have the honor to transmit herewith a copy of the original text of Note No. 3152, dated March 10, 1938, together with copies of the enclosures thereto, received by this Legation from the Ministry of Foreign Affairs of this Government, forwarding for the confidential information of the Legation, a copy of the translated text of the note presented March 3, 1938, to the Foreign Office by the Minister of Great Britain in Guatemala, relative to the controversy now pending between the two Governments in connection with the boundary of British Honduras, together with a copy of the reply of the Guatemalan Government to this note. Translations of all three notes are likewise enclosed.<sup>2</sup>

Reference to the notes herewith transmitted would appear to indicate that the efforts of Guatemala to have the matter arbitrated have reached an impasse, and at the same time the British Government have disavowed responsibility for any incidents which may arise out of the failure of this Government to recognize the boundary as it now exists. In view of the refusal of the British Government to admit any obligations arising out of the stipulations of Section VII of the Boundary Treaty of 1859,<sup>3</sup> the Government of Guatemala now seems to have taken the attitude that it no longer considers itself as amenable to any or all of the other provisions of the same treaty.

For the Department's information I wish to add that in an informal conversation which I have just had with Foreign Minister Salazar

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<sup>1</sup> For previous correspondence, see section entitled "Request of Guatemala that the United States use its good offices with the United Kingdom in support of Guatemalan claims with respect to Belize," *Foreign Relations*, 1937, vol. v, pp. 120 ff.

<sup>2</sup> None printed.

<sup>3</sup> Convention between Great Britain and Guatemala, relative to the boundary of British Honduras, signed at Guatemala, April 30, 1859, *British and Foreign State Papers*, vol. XLIX, p. 7.

of this Government, he stated that he believed that there was nothing further to be done in the matter and that it probably would be left pending under the caveats embodied in the note of his Government to the British Minister until such time as subsequent events and developments might appear to warrant a reopening of the question.

Respectfully yours,

FAY ALLEN DES PORTES

714.44A15/36

*The Chargé in Guatemala (McKinney) to the Secretary of State*

No. 596

GUATEMALA, May 20, 1938.

[Received May 26.]

SIR: I have the honor to inform the Department that during the course of an interview which I had yesterday with the Foreign Minister of this Government he stated that he had just had an extended discussion with the Minister of Great Britain in Guatemala relative to the matter of the British Honduras-Guatemala boundary dispute and that he was glad to report that the British Government is beginning to display a much more reasonable attitude towards the Guatemalan claims, this despite the statement made in the British Note of March 3, 1938, to this Government to the effect that "no useful purpose would be served in carrying the matter further" (Legation's despatch No. 534 of March 16, 1938). He further informed me that the British Government had again expressed its willingness to submit the matter to arbitration, but that no agreement relative to the personality of the mediator appears possible, since Great Britain insists on referring the dispute to either the Hague Tribunal or the Council of the League of Nations, while President Ubico, on the other hand, insists on an American arbitrator. This statement was subsequently substantially confirmed in a conversation which I had this morning with the British Minister.

President Ubico is keeping the matter continuously before the attention of the Central American Governments by notes through the medium of the Guatemalan Ministers to those countries, requesting the moral support of those Governments, and it is understood that he is contemplating asking conjoint action in the form of economic sanctions should all other recourse fail. His efforts in this direction seem to have met with some measure of success, especially in El Salvador, where newspaper comment has been distinctly favorable to the Guatemalan cause.

Respectfully yours,

WALTER H. MCKINNEY

714.44A15/41

*The Minister in Guatemala (Des Portes) to the Secretary of State*

No. 640

GUATEMALA, July 16, 1938.

[Received July 21.]

SIR: I have the honor to transmit herewith the text, together with a translation thereof, of a memorandum relative to the pending dispute between Guatemala and Great Britain over the extension and boundaries of British Honduras. This memorandum was prepared by the Ministry for Foreign Affairs of this Government in connection with a request which President Ubico made of me during the course of an interview which I had with him recently that I ask the Department to intervene in the matter to the extent of discussing it, in the light of the diplomatic and political relations of the United States with Great Britain at the time of and leading up to the signing of the Clayton-Bulwer Treaty in 1850,<sup>4</sup> with the British Ambassador in Washington. President Ubico appears to be doing everything in his power to keep the question alive and in the public eye, and the present request is doubtless in conformity with his other activities along the same line. I assured him that I would be glad to transmit his request, but added that I was not certain that the Department would find it possible to accede to it at this time.

In discussing the controversy with me President Ubico stated that he would gladly accept settlement of it on the basis of England's relinquishment of the territory not included in the original usufructuary grant of the King of Spain.<sup>5</sup> He has no desire to acquire sovereignty over Belize itself, nor would he, if the foregoing concession were made, demand any indemnity for England's non-compliance with Article VII of the Treaty of 1859.

Respectfully yours,

FAY ALLEN DES PORTES

[Enclosure—Translation <sup>6a</sup>]

*The Guatemalan Ministry for Foreign Affairs to the American Legation*

MEMORANDUM RELATIVE TO THE QUESTION OF BELIZE PENDING  
BETWEEN GUATEMALA AND GREAT BRITAIN

Sir Henry Bulwer, English Minister in Washington, before effecting the exchange of ratifications of the Clayton-Bulwer Treaty,

<sup>4</sup> Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 5, p. 671.

<sup>5</sup> This grant was made by the convention between Great Britain and Spain relative to America, signed at London, July 14, 1786; for text of the convention, see *British and Foreign State Papers*, vol. 1, p. 654.

<sup>6a</sup> Translation revised by the editors.

signed the 19th of April, 1850, declared on the 29th of June that the clauses of the Treaty, as understood by the Government of Her Majesty, were not applicable to the establishment of Belize and that with that explicit declaration the ratifications would be exchanged. Mr. Clayton, Secretary of State, in a letter of July 4 following, agreed to the reservation of the English Minister, but at the same time he declined to accept or to reject the British title to Belize.<sup>6</sup>

Bassett Moore, in his *Digest of International Law* (Vol. III, page 130 *et sequ.*), gives the complete and detailed history of the diplomatic controversy afterwards arising between the United States and England relative to the application of the Clayton-Bulwer Treaty, the provisions of whose Article I prohibits England from maintaining any occupation in Central American territory.

Although England claimed to have taken possession of Belize during the Anglo-Spanish War of 1796, the Government of Washington maintained and proved that numerous acts of the British Government had exceeded (*avumentado*) the force of the Treaty of Peace of Amiens (1802),<sup>7</sup> in accordance with Article III of which, and with the exception of the Island of Trinidad, Great Britain renounced any Spanish territory occupied by its forces during the war. "It is, however, distinctly to be understood, that the Government of the United States acknowledge no claim of Great Britain within Belize, except the temporary 'liberty of making use of the wood of different kinds, the fruits and other produce in their natural state', fully recognizing that the former Spanish sovereignty over the country belongs either to Guatemala or Mexico", Mr. Buchanan, Minister of the United States, advised Lord Clarendon on July 22, 1854.<sup>8</sup>

The controversy was prolonged until the year 1857, when the Government of Great Britain declared on October 19 its resolution to send a representative to Central America to arrange in separate treaties with the respective Governments of these Republics the matters on which the United States and England had not come to agreement;<sup>9</sup> the Government of the United States received that announcement with satisfaction and declared "in reference to the extended boundary claimed by Great Britain for the Belize (to which it had ever objected), that he could make no absolute engagement in this matter; but he would say this much, 'that if the Bay Islands were fairly and handsomely evacuated, such a measure would have a great effect with him,'<sup>10</sup>

<sup>6</sup> For the British declaration of June 29 and the American note of July 4, 1850, see Miller, *Treaties*, vol. 5, pp. 681 and 682.

<sup>7</sup> Definitive Treaty of Peace between Great Britain on the one part and France, Spain, and the Batavian Republic on the other, signed at Amiens March 25 and 27, 1802, Martens, *Supplement au recueil des principaux traités* (Gottingue, 1802-1808), vol. II, p. 563.

<sup>8</sup> Moore, *Digest*, vol. III, p. 139; original English text restored.

<sup>9</sup> *Ibid.*, p. 168.

<sup>10</sup> i. e., the President of the United States.

and with the American people, in regard to the settlement of the other points at issue.'"<sup>11</sup>

The instructions of the English envoy to Central America, as communicated to the Government of the United States on December 5, 1857, included three points:<sup>12</sup>

1. The return by England of the Bay Islands to Honduras;
2. Recognition of Nicaraguan sovereignty over the Mosquito Coast.
3. "The regulation of the frontier of British Honduras was to be effected by negotiation with the Government of Guatemala. Her Majesty's Government trusted to obtain from that Republic a recognition of limits 'which, if we may judge from previous communications on the subject, may be accepted in a spirit of conciliation, if not with absolute approval, by the President.'"

The Plenipotentiary of Great Britain presented himself before the Government of Guatemala, the situation of which with regard to Belize resulted very disadvantageously as a consequence of the Dallas-Clarendon Treaty (London, 1854)<sup>13</sup> which, without any participation, nor scarcely official knowledge of the Government of Guatemala, contained an agreement of the Governments of the United States and England relative to the establishment of the frontiers of Belize as and how claimed by Great Britain to the River Sarstun, much more than 100 English miles south of the Sibún, the limit of the usufruct concession of 1786. If England was lacking in title to the territorial possession of the area included between the Rivers Hondo and Sibún, it was able to invoke even less authority for legitimate pretensions to territories situated to the south and to the west of the conditional concession of the King of Spain: the argument of the armed conquest during the war of 1796 remains nullified by the copious and interesting British documentation of the *Archives of British Honduras* (three volumes, London, 1931/35), compiled by the ex-Governor of Belize, Sir John Alder Burdon.

The unfavorable situation in which it was placed by the Dallas-Clarendon treaty, and the serious conditions resulting from prolonged civil war and political and economic difficulties compelled the Government of Guatemala to resign itself to accepting the consequences of that treaty in which two great powers agreed—even though only in principle—that Belize belonged to England with the boundaries which the latter claimed.

<sup>11</sup> Moore, *Digest*, vol. III, p. 169; original English text restored.

<sup>12</sup> This information was communicated by Lord Napier to Secretary of State Lewis Cass in a note dated November 30, 1857, *ibid.*; original English text restored in point 3.

<sup>13</sup> The Dallas-Clarendon treaty between the United States and Great Britain, signed at London, October 17, 1856, failed to go into force; see Miller, *Treaties*, vol. 5, p. 793.



As in every way England saw itself in the necessity of exhibiting in Washington legitimate title to the possession of Belize, and only Guatemala was able to grant it; the latter, despite the Dallas-Clarendon Treaty which converted into an accomplished fact and recognized the English usurpation, demanded as a condition for the acceptance of the limits of the frontiers agreed to in London the corresponding compensatory clause.

But England could not disclose, in the treaty which precisely it had to invoke in Washington, that in 1859 it had flagrantly violated the Clayton-Bulwer treaty, by virtue of which it had promised the United States, in 1850, *not to occupy, fortify, colonize, assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast nor any part of Central America*.<sup>14</sup> In consequence, it obliged Guatemala not to mention *the cession of the territory of Belize*, and the Convention of 1859 was called simply the *Boundaries of Belize*. The greatest ambiguity possible was given to the compensatory clause, Article VII, which says literally:

“Article VII. With the object of practically carrying out the views set forth in the preamble of the present Convention, for improving and perpetuating the friendly relations which at present so happily exist between the two High Contracting Parties, they mutually agree conjointly to use their best efforts, by taking adequate means for establishing the easiest communication either by means of a cart-road or employing the rivers, or both united, according to the opinion of the surveying engineers, between the fittest place on the Atlantic Coast, near the settlement of Belize, and the capital of Guatemala; whereby the commerce of England on the one hand, and the material prosperity of the Republic on the other, cannot fail to be sensibly increased; at the same time that the limits of the two countries being now clearly defined, all further encroachments by either party on the territory of the other will be effectually checked and prevented for the future.”

It was England which advanced into Guatemalan territory and, on agreeing on limits of such advances, the Government of Guatemala did nothing but to cede sovereignty: why the English promise to construct a highway to the end of “augmenting considerably the material prosperity of the Republic”, if not in compensation for that territorial cession?

But England, the proposition of obtaining a legitimate title to the object of the Dallas-Clarendon Treaty being attained, rejected the obligation of the compensatory clause: from the middle of the 19th century, and with incidents many times offensive to the Republic, the latter maintained the reserve of its rights and claim for complete compliance with the Convention of 1859. Finally, in 1937 and confronted

<sup>14</sup> See Miller, *Treaties*, vol. 5, p. 672; original English text restored.

with the force of justice which assists the Republic, the English Government accepted the proposal to arbitrate the question, but it refused to accept the President of the United States as arbitrator on the pretext that the matter is solely concerned with the mere legal interpretation, contrary to the opinion of Guatemala which sustains the thesis of the material and intangible damages which, sustained during fifty years because of the lack of the highway agreed upon—Guatemala inaugurated its Atlantic railway in 1908—, the non-compliance of England has caused it.

The English Legation has communicated to the Government of Guatemala that its Government, in view of not being able to come to an agreement on the question, definitely declined compliance with Article VII of the Convention of Limits with Belize, and at the same time holds Guatemala responsible for the consequences of not accepting on its part the limits unilaterally laid out by English engineers.

In view of the attitude of Great Britain, Guatemala holds the following point of view: the non-compliance with Article VII of the Treaty, the compensatory clause, obligation of England, invalidates the other articles of the treaty, which only constitutes a sacrifice for Guatemala.

The Convention of Limits—which was that of cession—with Belize, invalidated by England, the situation of the actual colony returns to the *status quo ante*, that is to say, England has as a usufruct concession the area included between the Rivers Hondo and Sibún, and unlawfully holds (*detenta*) through successive usurpations from the Republic of Guatemala all of the territory situated at the south of the River Sibún and to the west of the concession of the King of Spain.

The situation unhappily created by one of the powers, England, which proclaims the sanctity of international treaties, cannot be other. And Guatemala, which traditionally has complied faithfully with all of its contractual agreements with other nations, solemnly invokes the Clayton-Bulwer Treaty which, the Convention of 1859 being nullified, is the only (treaty) legitimately invocable to settle the question of Belize.

GUATEMALA, July 8, 1938.

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714.44A15/45

*The Chargé in Guatemala (McKinney) to the Secretary of State*

No. 766

GUATEMALA, December 16, 1938.

[Received December 27.]

SIR: I have the honor to forward herewith a package and letter<sup>15</sup> from General Jorge Ubico, President of Guatemala, for delivery to

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<sup>15</sup> Not printed.

President Roosevelt. The Department will note from the attached copy of the letter from the presidential secretariat that the package contains a copy of the Guatemalan "White Book" relative to the pending controversy with Great Britain over the boundaries of British Honduras.<sup>16</sup> The suggestion is made in this letter that the book be handed personally to President Roosevelt by Minister Des Portes who is, as the Department is aware, en route to the United States.

Since the Legation was furnished a copy of President Ubico's letter in the matter a copy thereof, together with its translation, is likewise enclosed for the Department's files.

Respectfully yours,

WALTER H. MCKINNEY

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<sup>16</sup> Guatemala, Secretaría de Relaciones Exteriores, *Libro blanco; controversia entre Guatemala y la Gran Bretaña relativa a la convención de 1859, sobre asuntos territoriales; cuestión de Belice* (Guatemala, 1938).

## BOUNDARY DISPUTES

### ARGENTINA AND CHILE

725.3515/13 : Telegram

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

SANTIAGO, May 3, 1938—9 a. m.

[Received 9:59 a. m.]

57. At a dinner last night given by the President of Chile for the Argentine Minister for Foreign Affairs both the Argentine Minister for Foreign Affairs and the Chilean Minister for Foreign Affairs informed me that the two Governments have agreed to submit to arbitration the question of the ownership of the islands at the eastern end of the Beagle Canal.

As sole arbitrator they have agreed upon the Chief Justice of the United States and their respective Ambassadors in Washington have been instructed to see Mr. Hughes today and request him to act. They would in every particular appreciate your supporting their request with the Chief Justice explaining that the procedure will be very simple: each Government to submit through its Embassy at Washington a simple brief without argument.

As they desire to sign the protocol tomorrow prior to Cantilo's<sup>1</sup> departure Thursday, a reply if possible before tonight is requested.

ARMOUR

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725.3515/14 : Telegram

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

SANTIAGO, May 3, 1938—4 p. m.

[Received 5:55 p. m.]

58. Referring Embassy's telegram 57, May 3, 9 a. m., and my conversation with Undersecretary, I communicated Chief Justice's decision to Foreign Office which regrets that he finds it impossible to accept.

Minister for Foreign Affairs has now informed me that both Governments would like to make the same offer to the Attorney General,

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<sup>1</sup> José Marfa Cantilo, Argentine Minister for Foreign Affairs.

Homer Cummings, or if he is unable to accept to Professor Manley O. Hudson of Harvard University.

They would appreciate a reply as soon as possible as it is still hoped to be able to sign the protocol tomorrow prior to departure of the Argentine Minister for Foreign Affairs.

Benjamin Cohen <sup>2</sup> with whom I spoke told me they are most anxious to have an American as the arbitrator and feels sure we will appreciate the importance of this from every point of view.

ARMOUR

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725.3515/15 : Telegram

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

SANTIAGO, May 4, 1938—10 a. m.  
[Received 10:25 a. m.]

59. For the Under Secretary. Referring to the Embassy's telegram 58, May 3, 4 p. m., both Gutierrez <sup>3</sup> and Cantilo told me last night that they are extremely anxious that Attorney General Cummings should accept and hope that his acceptance may be received if possible by noon today in order that the ceremony of signing the protocol may take place this afternoon.

From what they said I judge that this act is planned as the culminating point in Cantilo's visit and they both feel that if the United States were associated with them as the third party it would give a special significance.

If no immediate decision is possible could you in any case tell me when a reply may be expected? <sup>4</sup>

ARMOUR

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725 : 3515/16a

*The Under Secretary of State (Welles) to the Attorney General (Cummings)*

WASHINGTON, May 6, 1938.

MY DEAR MR. ATTORNEY GENERAL: In pursuance of our conversation over the telephone yesterday, I take pleasure in enclosing a brief memorandum outlining the background and the salient features of the Beagle Channel islands controversy between Argentina and Chile.

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<sup>2</sup> Chief of the Diplomatic Department of the Chilean Foreign Office.

<sup>3</sup> José Ramón Gutiérrez Alliende, Chilean Minister for Foreign Affairs.

<sup>4</sup> The acceptance of Attorney General Cummings to act as arbitrator was telephoned to Ambassador Armour by the Department on May 4, 1938 (725.3515/-14).

I am gratified that you have accepted this exacting task. It is needless for me to assure you that the full assistance of this Department is at your complete disposal and I shall be most pleased to assist you in collecting publications, data and maps that you may require.

Believe me, with kindest regards as always,

Sincerely yours,

SUMNER WELLES

[Enclosure]

*Memorandum on the Beagle Channel Islands Controversy Between Argentina and Chile*

[WASHINGTON,] May 6, 1938.

In 1881, Chile and Argentina undertook to fix their boundary through a treaty signed in Buenos Aires on July 23. Article 3 of the Chilean-Argentine Commercial Treaty of July 23, 1881, which delimits the boundary in the region of Tierra del Fuego, reads as follows:

“In Tierra del Fuego a line shall be traced, starting from the point named Holy Spirit Cape (*Cabo del Espíritu Santo*) in latitude 52°40' shall be prolonged toward the south coinciding with the western meridian of Greenwich 68°34' until it touches the Beagle Channel. Tierra del Fuego divided in this manner shall be Chilean in the western part and Argentine in the eastern part. With respect to the islands there shall belong to the Argentine Republic the Islands of States (*Islas de Los Estados*), the islets in its immediate neighborhood, and the other islands which may be in the Atlantic to the East of Tierra del Fuego and the eastern coasts of Patagonia; and there shall belong to Chile all the islands south of the Beagle Channel to Cape Horn and those which may be to the west of Tierra del Fuego.” [*Foreign Relations*, 1881, p. 12.]<sup>5</sup>

In delimiting the boundary in the region of Tierra del Fuego, the Governments of Chile and Argentina were largely guided by the charts of the British Admiralty, the most authoritative being the 1887 edition of Map No. 1373 and the seventh edition of the *Pilot of South America of 1875*. The genesis of the current controversy over the ownership of the islands south of the Beagle Channel is in what constitutes the Beagle Channel.

This long-standing boundary controversy with regard to the Beagle Channel islands is far out of proportion to any possible economic and military value which these islands may possess. *The Geographical Review* (Vol. 5, 1918, pages 146-147) in commenting on this controversy mentions that, “Two diminutive islands, almost unknown to

<sup>5</sup> Brackets throughout this document appear in the original.

geographers, navigators, or traders, have brought up a new boundary discussion . . .<sup>6</sup> The islands in question are inhabited only by a few Indians. White settlements have been attempted at various times but without success. The resources are meagre, consisting of a small amount of timber and some fair grazing land. It was upon the Tierra del Fuego coast near here that Allen Gardiner and his party of English missionaries starved to death in 1850 . . .<sup>6</sup> It is possible but not probable that the islands may come to have strategic importance”.

### *Argentine Position*

It seems that for some years following the treaty, Argentina raised no special question with regard to the islands at the mouth of the Beagle Channel. As a result of certain hydrographic surveys of the channels which flow around the island of Picton, the Argentine Government later raised the questions of whether the opening lay to the astronomical or the magnetic north of Lennox Island, and that the proper ownership of the islands south of this channel should be based upon a determination of the principal axis (*eje*) of the channel.

The first attempt to question Chile's claim occurred in 1891 when an Argentine geographer published a map in which the Beagle Channel was indicated as bending to the south where it intersects the meridian 65°10'. A little later another Argentine assigned the name of Moat Channel to the waters flowing to the northwest of Picton Island between the island and the mainland of Tierra del Fuego and placed the main course of the Beagle Channel southeast and around the south of Picton Island. The most extreme position taken by Argentina assigned the point where the meridian 67°15' intersects the Beagle Channel as its true mouth.

The Argentine position has been presented in the *Derrotero del Canal de Beagle*, published by the Sección Hidrográfica del Ministerio de Marina [Buenos Aires, 1901] in *Memoria de los Trabajos Efectuados en el Canal Beagle*, 1899-1900, by the same Department [Buenos Aires, 1912], and in a series of editorials in *La Prensa* of Buenos Aires in January and February, 1915, by Dr. Estanislao S. Zeballos.

### *Chilean Position*

The Chilean Government is reported to have exercised limited jurisdiction and sovereignty over the islands in dispute periodically since the Treaty of 1881. Chile's claim is defended by J. Guillermo Guerra, Professor of International Law in the University of Chile, in his *La soberanía Chilena en las islas al sur del Canal Beagle*, Santiago, 1917.

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\* Omission indicated in the original memorandum.

*"Pacto Adicional" of 1893*

In carrying out the Treaty of 1881, it soon became apparent to the boundary commissioners that delimiting the line following the highest crest created the possibility that where deep indentations cut into the mountains Argentina might be found in possession of points on the Pacific encircled by Chilean territory. To avoid such awkward salients, Article 2 of the "Pacto Adicional", ratified December 21, 1893, states that, ". . . the sovereignty of each state over the respective littoral is absolute, to such an extent that Chile cannot claim any point on [*hacia*] the Atlantic nor can the Argentine claim any on the Pacific." The boundary commission considered it so important to stick rigidly to this principle that in setting the boundary in Tierra del Fuego the meridian south from Cape Espíritu Santo was deliberately dropped over about a mile and a half west of the true meridian designated in the treaty. This was done to prevent the possibility of the boundary line cutting through the Bay of San Sebastian and thus giving Chile a port on the Atlantic. [*La soberanía Chilena en las islas al sur del Canal Beagle*, by Guerra, p. 263.] [In discussing the question of the boundaries of oceans, the Geographer of the Department referred to an unofficial exposition of this matter in a special publication of the International Hydrographic Bureau at Monaco, entitled *Limits of the Oceans and Seas*, August 1928.]

*Protocol of 1915.*

The differing views of the two governments with respect to the islands at the eastern end of Beagle Channel were brought out in the open in 1915 as the result of the publication of a decree of the Chilean Government, dated December 15, 1914, on the subject of the jurisdiction and neutrality of the Straits of Magellan and the southern channels. This led to the signing of a protocol dated June 28, 1915,<sup>8</sup> providing for the arbitration of the matter by the King of England. It appears that the British Government was willing for the King to act as soon as the World War was over and the agreement to refer the question to him was filed to await the end of the war. Since 1915 the matter has been apparently dormant, as there is practically nothing in the Department's files.

The Geographer of the Department reports that an examination of the maps on file in the Department shows the following result:

1. Chilean maps examined show islands as being under Chilean sovereignty.

<sup>7</sup> Omission indicated in the original memorandum.

<sup>8</sup> Convention to submit to the arbitration of the King of England the sovereignty of islands in the Beagle Channel, signed at Buenos Aires, June 28, 1915, Argentina, *Memoria del Ministerio de Relaciones Exteriores* (1915-1916), pp. 75-76.



2. Argentine maps examined mostly show islands as Argentinian, but some show Isla Picton and Isla Nueva as Argentinian, and Isla Lennox as Chilean, e. g., Argentine railroad map, 1933, sheet 5, filed as:

784 gme  
1933A  
Sheet 5

One Argentine map of Tierra del Fuego shows all 3 as Chilean. Filed as:

784.68a  
1928K

Also an Argentine map of Argentina showing economic information:

784g  
1929A

3. A map of Argentina & Chile boundaries, 1902, printed in Paris, shows "line acc. to Act of Oct. 1, 1898" putting I. Lennox on Chilean side, and I. Picton & I. Nueva on Argentinian side. Filed as:

784fab  
1902

The map of *Tierra del Fuego*, provisional edition S. N. 19, of the American Geographical Society of New York, is the best available in the Department for the area in dispute. This map shows the portion of the boundary definitely delimited and the portions in dispute as well as the various alleged courses of the Beagle Channel. A photostat of this map may be readily made in the Geographer's Office.

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725.3515/22

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

[Extract]

No. 30

SANTIAGO, May 7, 1938.

[Received May 13.]

SIR: In continuation of my despatch No. 26 of yesterday, and with reference to my telegram No. 62 of yesterday,<sup>9</sup> I have the honor to transmit herewith the text and English translation of the convention agreeing to the designation of the Attorney General of the United States as sole arbiter of the Beagle Channel dispute, signed on May 4th in this city by the visiting Foreign Minister of Argentina and Foreign Minister Gutierrez of Chile. The text used appeared in *La Nación* of May 5th and, according to the Foreign Office is authentic. I have inquired of the Foreign Office as to just what the procedure of

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<sup>9</sup>Neither printed.

ratification as outlined in Article IV of the Convention will be, but my inquiry has not yet been answered.

[Here follow newspaper comments, not printed.]

Respectfully yours,

NORMAN ARMOUR

[Enclosure—Translation]

*Beagle Channel Convention*

The Government of the Argentine Republic and the Government of the Republic of Chile, with the purpose of removing the only controversy at present existing between both countries, concerning the determination to which of them corresponds the sovereignty over the Picton, Nueva and Lennox Islands and adjoining islets located within the Beagle Channel in the area comprised between Tierra del Fuego, the Dumas Peninsula and Navarrino Islands;

Considering that, given the excellent links which through history and up to the present time have bound and continue to bind both republics, the arbitral solution is that which corresponds closest to the spirit of true international brotherhood existing between them;

That from this point of view it is desirable that recourse be had to an arbitral solution to this matter and to that end both governments agree that the functions of arbitrator are to be exercised by an American jurist whose record will assure competence and impartiality;

That the solution of this matter will reaffirm the friendly and peaceful relations existing between both countries;

Have resolved to designate the following plenipotentiaries for this purpose:

His Excellency the President of the Argentine Republic, Dr. Roberto M. Ortiz, His Excellency don José María Cantilo, Minister of Foreign Affairs, and His Excellency the President of the Republic of Chile, Dr. Arturo Alessandri, His Excellency Dr. José Ramón Gutiérrez, Minister of Foreign Affairs.

Who, duly authorized, have agreed to submit the controversy in question to arbitration in conformity with the following bases:

Article 1: There shall be designated by both governments as arbitrator the Honorable Homer Cummings, Attorney General of the United States, who shall proceed to determine in accordance with existing treaties to which of the high contracting parties corresponds the sovereignty over Picton, Nueva and Lennox Islands and adjoining islets located within the Beagle Channel in the area comprised between Tierra del Fuego, the Dumas Peninsula and Navarrino Islands.

Article 2: The question shall be submitted to the arbitrator by means of a note signed jointly by the Ambassadors of both countries accredited to the United States.

Article 3: The arbitrator designated shall be able to dictate his decision once he has received a brief or written exposition from each

one of the parties, although he is also authorized prior thereto to request from the same parties further information.

Article 4: This convention shall be submitted as rapidly as possible for the necessary ratification and once that is obtained ratifications shall be exchanged in the city of Buenos Aires within thirty days from the final approval by both countries.

In faith of which the undersigned sign and seal two copies of the present convention in the city of Santiago on the fourth day of the month of May 1938.

#### ECUADOR AND PERU <sup>10</sup>

722.2315/1113

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] January 28, 1938.

The Ambassador of Ecuador <sup>11</sup> called to see me this morning. He told me first of all, with regard to the Peruvian-Ecuadorian boundary controversy and with reference to my conversation with him and with Dr. Viteri <sup>12</sup> at lunch earlier in the week, that provided the Government of Peru would suggest a prior arbitration by the World Court which would involve the determination of the validity of the Royal Cedula of 1740 and of the Treaty of 1829 between Ecuador [*Colombia?*] and Peru, <sup>13</sup> on the one hand, and of the Royal Cedula of 1802 <sup>14</sup> and the decree of the local authorities of the incorporation of the territory in dispute as a part of Peru in 1821, on the other hand, the delegation of Ecuador would accept such prior arbitration. This willingness to accept such prior arbitration would be premised upon the subsequent arbitration, once these points were determined, by the President of the United States, of the question of actual possession insofar as the territory in dispute was concerned.

The decision of the delegation of Ecuador was to be regarded as peculiarly significant in view of their previous unwillingness to consider any prior arbitration on the legal points above referred to.

I reminded the Ambassador of what I had so often said before, namely, that while this Government was acting as host to the two delegations, it did not possess the functions of mediator nor of in-

<sup>10</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 46-56.

<sup>11</sup> Colón Eloy Alfaro.

<sup>12</sup> Homero Viteri Lafronte, Chairman of the Ecuadoran delegation to the Washington negotiations.

<sup>13</sup> Treaty of September 29, 1829, between Colombia and Peru, Ricard Aranda, *Colección de los Tratados del Peru*, vol. III, p. 185.

<sup>14</sup> Aurelio Noboa, *Colección de Tratados del Ecuador* (Guayaquil, 1901), vol. I, pp. 15-21; Frederic González Suárez, *Estudio Histórico sobre la Cédula del 15 de julio de 1802* (Quito, 1913).

termediary and that, while I was prepared and had been prepared to do everything I could to facilitate the successful termination of the negotiations, I did not feel authorized by either of the two Governments involved to suggest specific solutions or methods of procedure. I said, however, that Dr. Tudela<sup>15</sup> had requested me to have a talk with him some days ago and that as soon as I could find the time, which I trusted would be within the next few days, I hoped to go over the field with him. If during this conversation I found that there was a desire on the part of Dr. Tudela to discuss a possible compromise solution with regard to a prior arbitration, I would be happy to indicate that from my conversations with the delegates of Ecuador it seemed to me that a favorable attitude existed for such a solution.

I then discussed at some length with the Ambassador recent decrees and pronouncements of the Government of Ecuador affecting American commercial interests in that country. I likewise handed the Ambassador a memorandum<sup>16</sup> summarizing the more important of these questions. I remarked to the Ambassador that, as he and I had so often said, the first need for Ecuador was to settle her boundary controversy with Peru. Once this settlement was found, a foundation of stability would be secured by the Government of Ecuador which had not existed previously and which would permit the development in a healthy manner of the great natural resources of the Republic. I said that, of course, when that time came, Ecuador would need foreign capital and that it was obvious if they now destroyed confidence on the part of foreign capital in the guarantees which it should legitimately enjoy by the abrogation of contractual obligations in a unilateral manner and by the issuance of decrees regarded as excessively onerous and discriminatory by foreign interests now operating in the Republic, the present Government or any future government would have a far more difficult task in interesting foreign capital in investments in the Republic. The Ambassador said that of course he agreed with me entirely, and that the actions recently taken by his Government had been taken haphazardly without due knowledge of the facts involved and apparently solely in order to cater to nationalistic extremists. I asked him whether he thought that the increasing influence of the Italian military mission in Ecuador had any connection with the recent policy of his Government. He replied that he thought it might well be that it had but that he was inclined to think that the recent actions of his Government had been due more to an attempt to obtain support among the emotional masses than to any considered and concerted general policy.

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<sup>15</sup> Francisco Tudela, Chairman of the Peruvian delegation to the Washington negotiations.

<sup>16</sup> *Post*, p. 543.

The Ambassador said that he would at once take these various questions up with the President and with the new Foreign Minister, with whom he was on intimate terms, and that he thought he could obtain a reversal of the present tendency.

S[UMNER] W[ELLES]

722.2315/1114

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] February 8, 1938.

In order to avoid press comment I went yesterday evening to the Peruvian Embassy, where I had a conversation with the Peruvian Ambassador<sup>17</sup> and with the Chief of the Peruvian boundary controversy delegation, Dr. Tudela. I said to Dr. Tudela that I wanted to reiterate my appreciation of the message which the Peruvian Foreign Minister, Dr. Concha, had sent me through Dr. Tudela when the latter recently returned to Washington from Lima, namely, that Dr. Concha wanted me to be kept fully and closely informed of all details of the negotiations between the delegates of Peru and the delegates of Ecuador and would welcome any personal suggestions I might have to make with a view to facilitating the course of the negotiations. I said once more to Dr. Tudela what I had repeatedly said before, namely, that this Government as such had no part in the negotiations and was merely acting as host to the two delegations. Dr. Tudela said he fully understood this but nevertheless deeply appreciated, as did his Government, the disinterested hope of the Government of the United States that a satisfactory outcome of the negotiations might be found.

I asked Dr. Tudela what his impressions were of the recent conversations he had been having with Dr. Viteri. Dr. Tudela said that he was afraid that the conversations had reached an impasse. He said that he and Dr. Viteri had first discussed the possibility of agreeing upon geographical lines which would bound a disputed zone to be submitted to arbitration by the President of the United States; that when Peru found this to be impossible because of the fact that Ecuador would not agree to any boundary lines which Peru could accept, Peru had then suggested a preliminary arbitration to be undertaken by the World Court in order to define the respective "sovereignities" of the two republics at the time the independence of Peru and of Greater Colombia was declared. This, he reminded me, Ecuador had refused to accept. The conversations had then centered upon the

<sup>17</sup> Manuel de Freyre y Santander.

delimitation by each party to the controversy of zones which they could mutually concede one to the other leaving in dispute certain zones for eventual submission to arbitration. This effort had likewise failed because of the presentation by Ecuador of zones for submission to arbitration which involved the existing control by Peru of both banks of the Marañón and the Amazon Rivers and Peru could not possibly agree to relinquish her existing control of these rivers. In this connection Dr. Tudela reminded me that Peru only recently had been placed in a highly embarrassing position and legally in an indefensible position because of her former treaty with Colombia when the inhabitants of Leticia had taken the law into their own hands and had attempted to wrest control from Colombia of territory ceded to Colombia by Peru under that treaty. He said that naturally Peru did not want to get into this situation again. He reminded me that at the present time Peru had no constitutional government and that any treaty she entered into with Ecuador for the determination of the boundary between the two republics would have some day to be ratified by a Peruvian Congress and that it was inconceivable that any Peruvian Congress would ever ratify a boundary treaty with Ecuador which ceded to Ecuador as a result of a direct agreement control of one bank of these two rivers.

I then said to Dr. Tudela that if these were the facts in the present situation, it seemed to me that the likelihood of a breakdown in the negotiations was imminent. I stated that this was all the more regrettable because of the fact that, as the Peruvian Government well knew since it was a secret to no one, Ecuador was passing through a difficult period both politically and economically; that with the possibility of frequent changes in the Government of Ecuador it was by no means unlikely that public opinion would demand that the Ecuadoran delegates be withdrawn from Washington because of the lack of progress which had been made and because of the heavy expense to the Ecuadoran Government which their continued presence here implied and that if that were done, it seemed very unlikely that negotiations could be resumed in the near future. Under such conditions, I said, any chance spark might create a really serious difficulty, which I was sure it was the desire of Peru to avoid. I further said that under these conditions it was not unlikely that the Government of Ecuador, from what I had been told, would refuse to attend the Inter-American Conference at Lima<sup>18</sup> and that the whole continent would necessarily regret the holding of an inter-American conference, at a time when inter-American relations on the whole were so highly satisfactory, with one important Government on the continent absent

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<sup>18</sup> See pp. 1 ff.

and unwilling to attend because of her continuing controversy with her neighbor.

Dr. Tudela said that his Government felt exactly the way I did but that he did not see that there was anything that Peru could do beyond what she had already done. I said that of course one complaint which the delegates of Ecuador had made to me was that Ecuador had repeatedly made concrete and practical suggestions with the understanding that Peru would make counter-suggestions but that in every case Peru had limited herself to turning down the suggestions made by Ecuador and refusing to present any counter-proposals.

I then said that Dr. Tudela had frequently told me that Peru would be willing to agree to any arbitration which envisaged the determination of Peruvian sovereignty at the time of the declaration of Peruvian independence. I said that it would seem to me that perhaps a way out of the difficulty was to revert to the Peruvian suggestion *re* prior arbitration involving this point upon which Peru had insisted but that of course Ecuador could not be expected to agree to any such suggestion unless the arbitration included the determination of other factors which Ecuador believed favorable to her own case. Dr. Tudela said that he recognized this but that of course any prior arbitration must necessarily include the so-called Incorporation of 1821, which was the basis for the Peruvian contention that the territory in dispute had been actually a part of the Republic of Peru when it declared its independence in that year. I said that I had that fact clearly in mind and I then asked Dr. Tudela what his opinion would be if Ecuador were to take under consideration the possibility of a prior arbitration to be undertaken by the World Court on the following bases: from the standpoint of factors favorable to the contentions of Peru, the determination of the validity of the Cedula granted by the King of Spain in 1802 and the incorporation of Peru in 1821 as an independent republic, and, as factors favorable to the contentions of Ecuador, the determination of the validity of the Cedula granted by the King of Spain in 1740 and the treaty entered into between Ecuador and Peru in 1829. I stated that it seemed to me that all of these factors must necessarily be weighed in any arbitration which would determine the respective sovereignties of the two countries at the time of their emergence as independent republics and that such an arbitration would determine exactly the question of "sovereignty" upon which Dr. Tudela had insisted. I then suggested that if such a prior arbitration could be had, once the validity of these various factors was determined through such arbitration, the remaining questions to be disposed of, namely, the exact geographical limits of the provinces found to be under the jurisdiction of one republic or the other and the

thesis of Peru that possession during the intervening period should be taken into account in the determination of sovereign jurisdiction, might be submitted to arbitration by the President of the United States as provided in the Protocol of 1924.<sup>19</sup>

To my satisfaction Dr. Tudela seemed very favorably impressed by the suggestion made. He discussed the various factors above recited at some length and after some consideration expressed his belief that possibly some solution along these lines might be satisfactory to his Government. I told him that I had discussed this possibility with Dr. Viteri and that while I had no commitment to transmit to him, I had the impression that Dr. Viteri might be willing strongly to recommend such a solution to his Government provided it was suggested by Peru in place of the terms of the prior arbitration earlier suggested by Peru.

Dr. Tudela said that he would at once communicate with his Foreign Minister, Dr. Concha, by cable and would let me know as soon as he had a reply. He again expressed his particular appreciation for the trouble I had taken in the matter.

S[UMNER] W[ELLES]

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722.2315/1123

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] February 9, 1938.

The Ambassador of Ecuador called to see me this morning at my request. I told the Ambassador that I had had the opportunity in a two-hour conference with the Peruvian Ambassador and with Dr. Tudela, the Chairman of the Peruvian boundary delegation, of taking up with them the formula for a possible solution of the boundary dispute which I had talked over with Dr. Viteri, and that I was very happy to say that the tentative suggestion made had appeared to receive a favorable reception from Dr. Tudela, who had said that he would at once cable it to his Government and that he hoped to give me an early and favorable reply thereto. The Ambassador of Ecuador expressed his very deep gratification at this favorable impression which I had received and said that he would at once advise his Government accordingly. I made it clear that it would be wise for him not to seem to be over-optimistic since I was merely giving him the impressions I had obtained, and that no commitments of any kind had been made. The Ambassador said that he would bear this in mind.

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<sup>19</sup> *Foreign Relations*, 1924, vol. 1, p. 305.



I said that it was always a matter of particular pleasure to the officials of this Government to be of service to the other governments of this continent in facilitating the satisfactory and peaceful solutions of difficulties which existed between them, and that in this present instance, the Ambassador knew that during these past eighteen months I had given a great deal of time and thought to this problem, always within the limitations of the course of procedure that this Government had laid down for itself. I said that therefore it was particularly gratifying to have at least some reasonable measure of hope.

S[UMNER] W[ELLES]

722.2315/1120

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] March 1, 1938.

The Ambassador of Peru called to see me this morning.

The Ambassador reminded me of the informal conversation which I had had with him and with Dr. Tudela at the Peruvian Embassy some two weeks ago with regard to the Peruvian-Ecuadoran boundary dispute. During the course of that conversation I had made a suggestion as to a possible basis for a preliminary arbitration of some of the main issues involved in the controversy. The Ambassador said that he had immediately cabled his Foreign Minister, Dr. Concha, after our conversation and had later supplemented his cable with an air mail despatch. He said that he had now received a telegram and also two despatches from Dr. Concha telling him that the suggestions made were receiving the immediate attention of the Peruvian Government. The Ambassador told me that under the system which is traditional with the Peruvian Foreign Office no important decisions in matters of this type are undertaken by any Peruvian Government until they have been passed upon by the Advisory Council on Foreign Relations which is composed largely of former Peruvian foreign ministers and of eminent international lawyers. It appears that Dr. Concha had submitted these suggestions to this Advisory Council which in turn had submitted them to a subcommittee of the Council. Dr. Concha had given the Ambassador to understand that he himself was very emphatically in favor of the suggestions proffered and that apparently the subcommittee in its majority was likewise in favor of the suggestions with the exception of one member who, for political reasons the Ambassador thought, was opposing the acceptance of the suggestions.

The Ambassador said that from the tone of the latest communication from Dr. Concha he felt very optimistic and thought that the probability was that the Peruvian Government would agree with the suggestions made and would probably make certain amendments or additions to the suggestion. This, the Ambassador said, was always the case in matters of this kind and he only trusted that they would not slow up an agreement with Ecuador on the basis proposed.

The Ambassador asked me if I could tell him whether the suggestions proffered would be accepted by Ecuador. I said that of course on that point I could make no commitment other than to tell him that the chairman of the Ecuadoran delegation was heartily in favor of the suggestions and that I could only assume that he would not indicate such an opinion unless he had reason to believe that his own Government would support him in such position.

S[UMNER] W[ELLES]

722.2315/1118

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] March 25, 1938.

The Ambassador of Peru called to see me this morning and communicated to me the following confidential message which he had been instructed to give me by his Minister for Foreign Affairs, Dr. Concha. Dr. Concha said he had great gratification in letting me know that his Foreign Office Advisory Council had at length come around to a reasonable point of view; that they now supported unanimously the position which he had taken and that the Peruvian Government was prepared to accept the suggestions I had proffered as a basis for the definitive settlement of the boundary dispute with Ecuador. The Ambassador added that Dr. García had been instructed to return to Washington and that immediately after the latter's return, the Peruvian delegation would be prepared to negotiate with the delegation of Ecuador on the basis of these suggestions.

I asked the Ambassador to let Dr. Concha know of my very deep appreciation of his message and of my great gratification that the way now seemed to be prepared for a friendly solution, through arbitration, of the long-standing dispute. The Ambassador asked

if I had any reason to believe that the Ecuadorans would now withdraw from the position they had previously announced. I repeated what I had said in an earlier conversation, namely, that I had been definitely advised both by the Chairman of the Ecuadoran delegation and by the Ambassador of Ecuador that the suggestions I had made were one hundred percent acceptable to the Government of Ecuador. Beyond that I said I could, of course, not go, but I stated that I would talk with Dr. Viteri as soon as possible and let him know of the attitude of the Government of Peru. The Ambassador said he hoped I would do so and expressed the earnest desire that a final adjudication of the dispute was now near at hand.

S[UMNER] W[ELLES]

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722.2315/1142a : Telegram

*The Acting Secretary of State to the Minister in Ecuador (Long)*<sup>20</sup>

WASHINGTON, June 4, 1938—2 p. m.

29. Please seek an immediate audience with the Minister for Foreign Affairs and discuss with him the recent border incident.<sup>21</sup>

You should state that as the host to the delegations from Ecuador and Peru at present in Washington in an endeavor to arrive at an amicable settlement of the long-standing boundary dispute, this Government naturally has followed with the greatest interest the course of their negotiations and has endeavored to facilitate them in every appropriate way. Therefore this Government could not but be preoccupied by any occurrence that places new difficulties in the way of the peaceful solution of the problem which it knows is so earnestly desired by each of the two countries. The course which developments in the present incident is taking appears to give ground for concern. However, this Government, without in any way expressing any opinion with regard to the origin or cause of the incident, is confident that just as the border incidents occurring in the past have all been satisfactorily adjusted by the two countries, so the two Governments will again display the same statesmanship and vision in speedily adjusting the present difficulty in order that the progress recently achieved by the two countries in their negotiations may continue uninterrupted to the successful outcome that is the hope of all.

WELLES

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<sup>20</sup> The same telegram, June 4, 2 p. m., to the Ambassador in Peru as No. 24.

<sup>21</sup> An Ecuadoran officer and two soldiers and later two more Ecuadoran soldiers were seized near the border by Peruvian troops. Following this, both sides reinforced their border outposts. (722.2315/1137)

722.2315/1152 : Telegram

*The Minister in Ecuador (Long) to the Secretary of State*

QUITO, June 17, 1938—11 a. m.

[Received 5:45 p. m.]

70. The Ministry of Foreign Affairs in an official communiqué today announces that the Ecuadoran and Peruvian Governments have agreed to withdraw their respective troops which were sent to the frontier since the incident of June 1 and to free the soldiers captured, at 9:00 o'clock this morning.

LONG

722.2315/1199 : Telegram

*The Ecuadoran Minister for Foreign Affairs (Tobar Donoso) to the Secretary of State*

[Translation]

QUITO, August 31, 1938.

I have the honor to inform Your Excellency that, since a solution of the territorial controversy between Ecuador and Peru has not yet been reached in accordance with the formula contained in the Protocol of June 21, 1924, the Ecuadoran delegation to the Washington conferences renewed yesterday in a note addressed to the Peruvian delegation the proposal previously made<sup>22</sup> of submitting the entire controversy to the juridical arbitration of the President of the United States, and suggested the expediency of signing a protocol which would amplify and complement the one of 1924 in which eventual and partial arbitration was already provided. In again proposing total arbitration my Government desires to give authentic testimony of its unalterable adherence to that eminently juridical means which modern law proclaims as the most efficacious for the solution of international differences and which has acquired singular force by the much praised submission to it of the Paraguayan-Bolivian dispute,<sup>23</sup> which precedent has stimulated and strengthened our present decision. Ecuador is fully confident that the sister nation with which unfortunately it has maintained this litigation during a century will not refuse the high and just recourse which we offer it for reaching the solution thereof in a short time. In this way the American horizon will be cleared definitively because there will be dissipated the last

<sup>22</sup> For proposal submitted by the Ecuadoran delegation to the Peruvian delegation on August 30, see Ecuador, Ministerio de Relaciones Exteriores, *Informe a la nación correspondiente al periodo de agosto de 1938 a julio de 1939*, pp. 15-16.

<sup>23</sup> See pp. 89 ff.

grave problem which still hinders the full consolidation of the close and fraternal bonds which unite these countries. I do not hesitate in believing that the step taken by Ecuador will find in the high American spirit of the Government which Your Excellency so worthily represents, the fullest acceptance (*acogida*).

Respectfully,

JULIO TOBAR DONOSO

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722.2315/1199 : Telegram

*The Secretary of State to the Ecuadoran Minister for Foreign Affairs  
(Tobar Donoso)*

WASHINGTON, September 3, 1938.

I have the honor to acknowledge the receipt of Your Excellency's telegram of August 31 informing me that the Ecuadoran Delegation has renewed to the Peruvian Delegation its proposal to submit the entire controversy to the juridical arbitration of the President of the United States of America, and that it has suggested the signing of a protocol which would amplify and complement the one of 1924; that the confidence of Your Excellency's Government in the efficacy of arbitration for the settlement of international differences has been stimulated and strengthened as a result of the settlement of the Chaco controversy; and that the Government of Ecuador in again proposing total arbitration has been actuated by a desire to give authentic testimony of its unalterable adherence to that procedure.

I appreciate deeply Your Excellency's courtesy in bringing to my attention this latest development in the efforts of the Governments of Ecuador and Peru to reach a solution of their long-standing dispute. Your Excellency's Government and the Government of Peru are fully aware of the sincere and fervent wishes of the Government and the people of the United States that a mutually satisfactory settlement may be agreed upon which will conciliate the conflicting interests of the two countries and thus strengthen the already close and fraternal bonds uniting them and furnish further concrete proof of the efficacy of the available means for the pacific settlement of international differences.

CORDELL HULL

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722.2315/1210 : Telegram

*The Chargé in Peru (Dreyfus) to the Secretary of State*

LIMA, September 29, 1938—3 a. m.

[Received 7:49 a. m.]

65. The Minister for Foreign Affairs handed to me at midnight a note reading in part as follows in informal translation:

"On this date my Government has given instructions to its delegation to the Peruvian-Ecuadoran Boundary Conference holding its sessions in Washington to suspend the negotiations which, in accordance with the Protocol of June 21st, 1924, have been carried on in Washington.

The Government of Peru has seen itself obliged to take this decision in view of the insistence of the Ecuadoran delegation in placing the negotiations outside the terms of the pact which gave them birth. You will recall that the Castro Oyanguren-Ponce protocol<sup>24</sup> establishes in its first article an eventual and partial arbitration by the President of the United States and that it does not anywhere contemplate the formula of integral arbitration upon which the Ecuadoran Government has recently insisted, according to the communications of its delegation dated August 20th last.

The attitude of my Government has also been influenced by the fact of having an invitation from the Ecuadoran Government to discuss the boundary controversy directly in Lima, the point having been reached where juridical or other reasons delay or prevent a friendly understanding in Washington. This eventuality having occurred, which the Ecuadoran Foreign Office, with an admirable spirit of foresight, was able to foresee, the Government of Peru accedes to the suggestion received, disposed as always to exhaust every pacific effort to settle juridically its boundary dispute." The note then thanks the United States for its hospitality and cooperation during the Conference.

Shortly before handing to me this note the Foreign Minister had delivered a radio address to the nation giving the historical background of the boundary dispute and explaining the action contemplated.

The Minister for Foreign Affairs informed me that he had intended terminating the negotiations in Washington on September 2nd of this year. However, this action was postponed because of the uncertain political conditions in Ecuador at that time. He added that Peru was now taking this step because the new Ecuadoran Government is not as friendly as its predecessor as shown by the Ecuadoran attitude including threats to boycott the Pan American Conference in December. The Foreign Minister also handed me, first, a copy of a personal letter from President Enriquez to President Benavides dated March 30th last but delivered much later, suggesting that if the negotiations in Washington should for any reason be interrupted the settlement of the controversy be intrusted to direct negotiations between the Ecuadoran Minister in Lima and the Foreign Office; and, second, a copy of the reply dated May 20th accepting the contingent proposal. The Foreign Minister emphasized that this was

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<sup>24</sup> The Protocol of June 21, 1924, was signed at Quito by E. Castro Oyanguren, Peruvian Minister in Ecuador, and N. Clemente Ponce, Ecuadoran Minister for Foreign Affairs. For text of Protocol, see *Foreign Relations*, 1924, vol. 1, p. 305.

evidence that Ecuador had foreseen that the position which it would assume would cause the breakdown of the negotiations in Washington. Despatch will be forwarded.

DREYFUS

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722.2315/1216 : Telegram

*The Ecuadoran Minister for Foreign Affairs (Tobar Donoso) to the Secretary of State*

[Translation]

QUITO, October 1, 1938.

[Received October 3.]

A month ago <sup>25</sup> I had the honor to call Your Excellency's considered attention to the proposal of total arbitration which, in its anxiousness to reach by juridical and pacific means the solution of the territorial controversy with Peru, the Ecuadoran delegation presented in the conferences in Washington. Today, I find myself in the painful situation of informing Your Excellency that Peru, instead of accepting that eminently conciliatory and fraternal proposal or of refusing frankly its assent, has resorted to an entirely anti-juridical and surprising recourse, that of suspending unilaterally the negotiations of Washington on the pretext that, by total arbitration, Ecuador has attempted to go beyond the terms of the Protocol of 1924. Such grounds lack any moral value because total arbitration was proposed precisely as a means of strengthening the efficacy of the Protocol and solely in the event that the parties should not reach a solution of the difference by the mixed method provided for in the said document, that is, a direct settlement and a partial arbitration. It was logical that in the event that these recourses should not give the hoped for result, Ecuador should seek the acceptance of a subsidiary means of such efficacy as total arbitration which until a short time ago was considered by Peru as embodied in the spirit of the said Protocol of 1924 and as the best instrument for the solution of international controversies. By the unilateral and violent suspension of the conferences Peru, in addition to violating the Protocol of 1924, has given evidence equally of a lack of confidence in its rights and of a repugnance which the arbitration inspires in it, notwithstanding that under such arbitration, as had been promised, Ecuador is resolved to proceed in a spirit of compromise and to take into account *de facto* situations worthy of attention. Ecuador, always respectful of its obligations and loyal to the principles of continental solidarity and justice which have converted America into the hemisphere of law, protests

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<sup>25</sup> See telegram of August 31 from the Ecuadoran Minister for Foreign Affairs, p. 226.

before it and addresses itself to the Foreign Offices of the friendly countries to express to them how contrary it would be to their own international policy and to the contractual bonds which unite them to Ecuador if Peru should persist in evading the obligations derived from the Protocol of 1924. My country hopes that the spirit of justice of the American Foreign Offices will support it (*acompañara*) in this moment of bitter test of law and of the sanctity of international agreements.

I am [etc.]

JULIO TOBAR DONOSO

722.2315/1216: Telegram

*The Acting Secretary of State to the Ecuadoran Minister for Foreign Affairs (Tobar Donoso)*

WASHINGTON, October 8, 1938.

I have received Your Excellency's telegram referring to the suspension by the Government of Peru of the negotiations in this city for the settlement of the boundary controversy and expressing the hope that the Government of the United States will view sympathetically the position of the Government of Ecuador.

As Your Excellency is aware my Government welcomed the privilege of acting as host for the Delegations of Ecuador and Peru during their sojourn in Washington. In that capacity it has endeavored in every appropriate way to facilitate the negotiations, animated always by a lively hope that there would emerge a settlement which, reflecting the broad comprehension and conciliatory spirit of the eminent statesmen of Ecuador and Peru, would lay more solid foundations for friendship and cooperation between the two countries. Therefore, while it is a source of disappointment that negotiations have not yet produced the results so sincerely desired, my Government is confident that the Governments of the two countries will examine the new situation in a spirit of determination to assure continued progress toward a pacific and definitive settlement.

Accept [etc.]

SUMNER WELLES

722.2315/1250: Telegram

*The Provisional Constitutional President of Ecuador (María Borrero) to President Roosevelt*

[Translation]

QUITO, October 10, 1938—9:45 p. m.

[Received October 11—9:14 a. m.]

In spite of the generous persistence of Ecuador no agreement has been reached, unfortunately, in the direct arrangements begun in 1933



in Lima and over 2 years ago in Washington, not only as regards a friendly compromise but as regards a formula for judicial solution of the controversy over boundaries which she has sustained with Peru for a century. On the contrary the neighbor country has just declined a reply to the proposal of full arbitration, the final recourse for this solution, and violently broken off the conference, even, thus putting in a serious situation my country's right and violating the agreements which bind it to the latter. The maintaining of such a delicate difference constitutes an insuperable obstacle to fraternal harmony between the two states, upon which indestructible antecedents make close solidarity obligatory for the benefit of both and the progress of the continent. For this reason, at the moment when, in the midst of universal applause, the labor of mediation for the termination of the long and bloody conflict of the Chaco comes to an end, I have the honor to appeal to Your Excellency, the most noble artificer of that peace, to deign to crown magnificently the civilizing work which you have carried to conclusion with so much brilliancy and glory by intervening in a friendly way in the solution of the century-old conflict which so often and so painfully has brought Ecuador and Peru to the brink of war and has prevented the complete disappearance of territorial disputes in America. I have absolute faith that the Governments which mediated in the Chaco problem will not hesitate to assume this most honorable responsibility by placing under their auspices the continuation of the negotiations and suggesting flexible formulas of fraternal conciliation which may conjure away forever the perilous disagreement. This new and most opportune intervention will win for Your Excellency the imperishable gratitude of my country and of all America and will wreath the brow of the great country over which you so wisely preside, with the purest and most exemplary glory. In the full assurance that Your Excellency will not refuse this inestimable service to the cause of American peace, I express to you in advance the gratitude of the nation and of myself.

Please accept [etc.]

MANUEL MARIA BORRERO

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722.2315/1218 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, October 11, 1938—8 p. m.

[Received 10:26 p. m.]

280. At meeting this evening with Minister of Foreign Affairs attended by Chilean, Brazilian, and Uruguayan Ambassadors, Minister read telegram addressed to President Ortiz by President of Ecuador referring to happy conclusion of Chaco dispute, to fruitless negotia-

tions in Peruvian-Ecuadoran conflict, and suggesting Chaco mediatory powers might undertake to settle this outstanding difficulty.

Foreign Minister concludes that same telegram has been sent to the several Presidents but feels that before his President sends any reply he should be informed of exact status of negotiations carried on in Washington, whether role of the United States was merely that of observer and whether similar telegram was addressed to our President.

Foreign Minister appears most desirous of learning our viewpoint and expressed the hope you might telephone me tomorrow morning covering the above points and giving your views.

WEDDELL

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722.2315/1218 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, October 13, 1938—4 p. m.

158. Your telegram 280, October 11, 8 p. m. You may inform the Minister for Foreign Affairs that Dr. Concha informed our Embassy in Peru on September 28 that he had instructed the Peruvian delegation to suspend negotiations in Washington on the grounds that the Ecuadoran proposal of August 20 goes beyond the terms of the Ponce-Castro Protocol of 1924. He recalled that the said Protocol established only a partial arbitration and did not contemplate the formula of integral arbitration which was what Ecuador proposed on August 20. He added that the attitude of the Government of Peru had also been influenced by the fact of having received an invitation from the Government of Ecuador to discuss the boundary controversy in Lima in the event that juridical or other reasons might delay or prevent a friendly understanding in Washington, and that this contingency having now arisen in the opinion of the Government of Peru, the latter acceded to the Ecuadoran suggestion, disposed as always to exhaust every pacific effort to settle juridically its boundary difficulty with the neighboring nation.

Subsequently the Ecuadoran Government has endeavored to establish that its proposal of August 20 was not beyond the scope of the Protocol. The Government of Peru on the contrary has firmly maintained its position as hereinbefore indicated and has pointed out that its action in proposing to continue discussions in Lima was in consonance with the *démarche* of Ecuador.

With respect to the role of the United States you may state that your Government has acted solely as the host for the delegations of Ecuador and Peru and, in that capacity, it has endeavored in every

appropriate way to facilitate the negotiations. Its role has been confined necessarily to that of host since any other action was precluded by the possibility that the President of the United States might be called upon to act as arbitrator under the terms of the Protocol.

For your information the chiefs of mission at Buenos Aires, Rio de Janeiro, Santiago, Lima and Montevideo will receive telegraphic instructions today regarding the message from the President of Ecuador.

HULL

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722.2315/1221: Telegram

*The Chargé in Peru (Dreyfus) to the Secretary of State*

LIMA, October 13, 1938—11 a. m.

[Received 1:17 p. m.]

68. The communications exchanged between the Presidents of Ecuador and Peru, enclosed with my despatch 672 of September 29th,<sup>26</sup> were published this morning in local newspapers and are no longer confidential.

In a conversation yesterday the Foreign Minister informed me that he had interrupted the Washington negotiations when he did because he knew that Ecuador was planning to bring pressure on Peru, just before the meeting of the Pan American Conference, by threatening not to attend. He considered it preferable to avoid this possibility by bringing the matter to a head at once. He stated that Peru will not allow itself to be intimidated by Ecuadorian threats to boycott the Conference but, rather than do so, will submit to its postponement if necessary.

Dr. Concha also indicated his belief that there is some division of opinion in Ecuador between a group of intransigents headed by Viteri and a more reasonable sector including the Ecuadorian Minister in Lima, who is returning today by plane.

He said nothing about the mediation suggested by Ecuador except that he thought some of the statesmen of the countries invited to mediate would try to make personal capital out of the proposal. However, the press today undoubtedly reflects the opinion of the Foreign Office in attacking the suggestion as an attempt to obscure the issue and in indicating that Peru will hold out for the bilateral negotiations suggested in the Presidential notes mentioned above.

DREYFUS

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<sup>26</sup> Not printed.

722.2315/1221a : Circular telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)* <sup>27</sup>

WASHINGTON, October 13, 1938—3 p. m.

The President of Ecuador has telegraphed to the President suggesting that the governments which mediated in the Chaco problem take under their auspices the continuation of negotiations between Ecuador and Peru looking toward a settlement of the boundary dispute. It is understood that similar telegrams were addressed by the President of Ecuador to the Presidents of Argentina, Brazil, Chile and Uruguay. You will please seek an early interview with the Minister for Foreign Affairs to discuss this situation and to request the views of his government. You may leave with the Minister for Foreign Affairs the following memorandum :

"The Government of the United States understands that the President of Ecuador has addressed telegrams to the Presidents of Argentina, Brazil, Chile, Uruguay and the United States of America, suggesting that those governments, which were represented in the mediatory group during the Chaco negotiations, take under their auspices the continuation of negotiations between Ecuador and Peru to settle the boundary dispute between those two countries.

"The Government of the United States is convinced that the other mediatory governments share its earnest desire that all boundary disputes still pending among the American republics may be settled promptly and peacefully. It also is convinced that the mediatory countries referred to share the willingness of the United States to be of any assistance possible to assure such pacific and prompt settlements.

"In accordance with the spirit of the pledges for consultation entered into at the Buenos Aires Conference this Government, prior to replying to the telegram received from the President of Ecuador, is desirous of exchanging ideas and receiving the views of the other governments to which similar telegrams were addressed. In considering the nature of the reply to be made to the Ecuadoran Government it is the view of this Government that within the existing peace machinery of this hemisphere there exist procedures believed adequate and effective for bringing about peaceful settlement of disputes between nations. Ecuador and Peru are parties to a number of inter-American peace treaties, in particular the Treaty to Avoid and Prevent Conflicts Between the American States signed at Santiago in 1923 <sup>28</sup> and the Convention on Inter-American Conciliation signed at Washington in 1929,<sup>29</sup> under which recourse may be had to permanent agencies as well as to *ad hoc* bodies.

"The Government of the United States is convinced that the other governments represented at the Chaco Peace Conference share the view that the procedure in the case of the dispute between Bolivia

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<sup>27</sup> The same, *mutatis mutandis*, to the diplomatic missions in Brazil, Chile, and Uruguay. Repeated for information to the Chargé in Peru as No. 40, October 13, 4 p. m.

<sup>28</sup> Signed May 3, 1923, *Foreign Relations*, 1923, vol. 1, p. 308.

<sup>29</sup> Signed January 5, 1929, *ibid.*, 1929, vol. 1, p. 653.

and Paraguay was well chosen, having produced a peaceful settlement. If the Government of Ecuador contemplates going outside of the peace mechanism established by treaty and calling upon the assistance of a mediatory group similar to that of the Chaco Peace Conference, this Government believes that such a procedure must also meet with the approval and have the support of the Government of Peru. This Government has no information as to the attitude of the Government of Peru in the premises.

"The Government of the United States would welcome an expression of the views of the Government of (insert name of country to which you are accredited) believing that in situations which may affect the peace of the hemisphere there should be full consultation and exchange of views in order to develop a common approach and attitude. The Government of the United States therefore will await the outcome of the present consultation and any others that may seem necessary in order to bring about this unified approach prior to replying to the message from the President of Ecuador."

You will please cable the results of your interview as soon as possible. Similar telegrams are being sent to the missions at Santiago, Rio de Janeiro and Montevideo, and a copy is being telegraphed to the Embassy at Lima for its information.

HULL

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722.2315/1225: Telegram

*The Chargé in Peru (Dreyfus) to the Secretary of State*

LIMA, October 14, 1938—6 p. m.

[Received 8:34 p. m.]

69. The Foreign Minister called me to his office this afternoon and stated that he had learned from the press that Argentina wishes to link the boundary dispute with Ecuador to the Pan American Conference. He declared that the Peruvian Government sees no connection whatsoever between the two but that in any case from the Peruvian viewpoint the boundary question was "paramount". He gave me to understand that while Peru is sincerely disposed to arrive at satisfactory and peaceful settlement of the boundary dispute, the boundary question is one of sovereignty and therefore more important to Peru. I got the impression that Peru would even go so far as to postpone the Conference if necessary.

He also indicated that he feels that Ecuador is trying to take unfair advantage of the existing situation and called Ecuador's appeal to the Chaco mediators both "extortion" and a form of "blackmail", apologizing for the use of these strong words.

He repeated his statement of the other day that he expected some of the statesmen of the powers invited to mediate would try to use the occasion for purposes of self-aggrandizement. He considers that

there is no similarity between the present situation and the Chaco dispute, as far as mediation is concerned. I gathered that Peru will resist any attempt at mediation at this time.

The Minister of Foreign Affairs stated that he intended to say nothing about the foregoing to the other countries involved but that, because of his cordial friendliness toward the American Government, he wanted us to know Peru's attitude.

DREYFUS

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722.2315/1226 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, October 14, 1938—9 p. m.

[Received 9:45 p. m.]

91. With further reference to the Department's circular telegram of October 13, 3 p. m. a note has been received from the Ministry of Foreign Relations of which the following translation has been made in the Legation.

"The Government of Uruguay sharing the desire that the boundary disputes still pending among the American Republics may be settled peacefully in accordance with the principles of its traditional international policy is disposed to collaborate in the efforts tending to secure that result.

Not recurring to the procedures existing in the various treaties already signed by the American countries and accepted for the purpose of furnishing peaceful settlements for international conflicts, the Government of Uruguay shares the opinion that a specially instituted mediation—if that is what the request of the President of Ecuador contemplates—must have the adhesion of the Government of Peru in order to be put into effect.

The Government of Uruguay will be very grateful to the Government of the United States—as it is for the formulation of the foregoing consultation—if it will continue to inform (the Uruguayan Government) regarding development of this matter the friendly and peaceful settlement of which it earnestly desires."

REED

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722.2315/1229 : Telegram

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

RIO DE JANEIRO, October 14, 1938—9 p. m.

[Received 10:20 p. m.]

243. My 239, October 14, 1 p. m.<sup>30</sup> Aranha<sup>31</sup> after careful consideration has handed me the following memorandum (translation).

<sup>30</sup> Not printed.

<sup>31</sup> Oswaldo Aranha, Brazilian Minister for Foreign Affairs.

"The Ministry of Foreign Affairs has had the honor to receive the American Embassy's *aide-mémoire* in regard to the recent telegram in which the President of Ecuador suggested to the Presidents of five other American Republics the mediation of their respective Governments in the boundary dispute between Ecuador and Peru.

The Government of Brazil ardently desires that this question should be settled peacefully. To this end it is disposed to assist in whatever manner may be most appropriate to bring about a prompt and friendly settlement of the controversy.

The Government of Brazil is pleased to note that its point of view in the present case coincides entirely with that of the American Government as set forth in the above-mentioned *aide-mémoire*. The point of view moreover has already been communicated personally by the Minister for Foreign Affairs to the Ambassadors accredited here of Argentina, Chile, and Peru.

It would seem therefore that the reply to the Ecuadorian suggestion should set forth the common desire for a peaceful settlement of the question, and that if the Governments of Ecuador and Peru at the present moment consider it desirable, in preference to any other pacific means of settlement, to have recourse to the good offices or the mediation of the Governments which were represented at the Chaco Conference, these latter would undoubtedly accede to a request in this sense from the two parties in litigation.<sup>5</sup>

CAFFERY

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722.2315/1230 : Telegram

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

SANTIAGO, October 14, 1938—midnight.  
[Received October 15—8:25 a. m.]

117. Department's circular telegram October 13, 3 p. m. I have just been handed a memorandum from the Foreign Office in reply to Embassy's memorandum based on Department's telegram of which the following is a translation:

"1. The Government of Chile has learned with the keenest interest of the important memorandum of the Government of the United States concerning the recent initiative of the President of Ecuador in requesting the Presidents of Argentina, Brazil, United States, Uruguay and Chile, mediatory countries in the Chaco conflict, to take under their auspices the continuation of the Ecuadoran-Peruvian negotiations.

2. It shares entirely the observations of wisdom set forth in said memorandum not only concerning the American instruments of peace to which Ecuador and Peru are parties, but also regarding the opportunity of applying the obligation of consultation, contracting [*contracted?*] in Buenos Aires, in order to define the record under study.

3. In that sense it wishes to express to the Government of the United States what the attitude of Chile is toward the initiative of the President of Ecuador:

(a) Chile has never refused its assistance to pacific initiatives which seem feasible and has even inaugurated them, particularly where American problems are concerned.

(b) It would have pleased her to proceed also likewise in the present case; but due to the existence of negotiations, in the customary diplomatic channels, Peru has declared that it does not accept any intervention in its dispute with Ecuador, which makes impossible, at this time, a *démarche* promising real results.

(c) The fact that only the Chaco Conference would take part in this case might give rise to the fear that the participating countries sought to set themselves up as a permanent group to take cognizance of all the problems which could arise, a circumstance at variance with the traditional policy of Chile and favorable to the formation of opposing blocs, with attendant dangers to the harmonious development of Pan Americanism. The omission of other countries contiguous to one or the other of the two litigants could not be justified in the present case.

(d) Consequently if we could later find an opportune moment for action in behalf of peace, Chile believes that the concept of continental solidarity should operate through the medium of the countries most directly interested in the solution of the controversies between Peru and Ecuador.

4. In view of the foregoing considerations the Government of Chile proposes to reply tomorrow to [*in?*] the following terms:

'I am grateful to Your Excellency for the flattering mark of confidence and friendship implied by your important telegram of the 10th of the present month, consistent with the traditional and old friendship which unites Chile to Ecuador. It would be a great satisfaction and a clear-cut duty for my Government to participate in an action such as Your Excellency suggests if the necessary antecedents were permitted to be brought to bear thereon and it were to contribute to the elimination of the existing disagreement between that republic and Peru. Your Excellency could in consequence count fully on Chilean cooperation in that sense if, as in the case of the Government so worthily presided over by Your Excellency, the Lima Government also should request it and if as in the case of my country, the rest of the Governments of the continent who ought also to take part, should be willing to extend their cooperation along the lines of a joint action envisaged by Your Excellency. Believe me, Your Excellency, that, subject to what has been set forth above, I fervently hope that the successful formulas for eliminating the last serious pending difficulty in South America can be found in order to realize in that way aspiration of peace and concord between sister nations. Arturo Alessandri, President of Chile, greets Your Excellency with assurances of the greatest esteem and consideration. Santiago, October 14, 1938.'

ARMOUR

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722.2315/1231 : Telegram

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

RIO DE JANEIRO, October 15, 1938—4 p. m.

[Received 8:20 p. m.]

245. My 243, October 14, 9 p. m. Minister for Foreign Affairs has just handed me the following note marked "very urgent" (translation):



"The Minister for Foreign Affairs presents his compliments to the Ambassador of the United States and has the honor to submit for His Excellency's consideration the enclosed text of a draft reply to the recent telegram of the Minister of Ecuador regarding mediation in the boundary question between Ecuador and Peru.

The Minister for Foreign Affairs would be most grateful to receive from the American Ambassador as urgently as possible an expression of his opinion in regard to the text referred to as well as any suggestions on the subject which he may care to make with a view to arriving as promptly as possible at a uniform reply for transmission to the President of Ecuador by the Presidents whose mediation has been solicited."

Enclosure follows:

"Appreciating the honor of Your Excellency's appeal which has merited special attention and consideration I wish to assure you in the name of my country that we are profoundly desirous that a prompt and pacific solution may be found for the question now pending between your Government and that of Peru, as was to be expected for all similar cases which may arise on our continent. I can assure Your Excellency that my Government ardently desiring to serve the cause of peace and harmony among the American peoples is today as always ready to contribute its best efforts toward a friendly solution of this question and would be happy to participate in the mediation which in the present situation your country and the Republic of Peru wish jointly to solicit from the continental countries."

CAFFERY

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722.2315/1233: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, October 16, 1938—3 p. m.

[Received 7:10 p. m.]

290. My 287, October 15, noon.<sup>32</sup> The Undersecretary for Foreign Affairs telephoned me yesterday afternoon to inform me that his Ministry had just been advised by the Chilean Government that the latter's President had telegraphed to the President of Ecuador in response to his recent telegram concerning mediation in the Ecuadoran-Peruvian boundary that while disposed to be at service in this controversy the Chilean Government found it impossible to take any steps in advance of a similar request from the Government of Peru.

The Undersecretary added that in these circumstances the Chilean Government having sent its answer without prior consultation with the other powers to whom the President of Ecuador had appealed the Argentine Government proposed telegraphing to the Chief Magistrate named in terms similar to the Chilean communication.

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<sup>32</sup> Not printed.

This morning the Undersecretary delivered to me a copy of the telegram that the Argentine Government will send to the President of Ecuador at 1 o'clock tomorrow, Monday, afternoon if the State Department (*cancillería de Washington*) does not before then suggest any substantial modification for consideration. A translation of the message follows:

"I have had the honor of receiving a telegram from Your Excellency dated the 10th instant by which, in making reference to the situation arrived at in the above conflict between Ecuador and Peru until now handled directly by the representatives of both countries in Washington, intervention of the Chaco mediatory group is suggested, in order that these negotiations may continue under their auspices, in accordance with the same spirit of conciliation and American accord with which the Bolivia-Paraguay dispute has so happily just been terminated.

The pacific settlement of international differences through legal channels is already traditional in Argentine policy and my Government cannot but consider with sympathy and good will any solution suggested on the basis of those same principles.

But by the very nature of the contemplated objective and the proposed procedure I believe that the initiative of Your Excellency, however honored may be the countries solicited, cannot be considered while there is not a concurrence of intention (*coincidencia de propósitos*) of the two parties interested whose common desire for conciliation if the case would arise would return in this Government the most frank spirit of collaboration."

The Undersecretary added verbally that he understood Brazil and Uruguay would send similar messages at the same time.

The Minister for Foreign Affairs returns to this capital on the 18th.

WEDDELL

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722.2315/1241a : Telegram

*President Roosevelt to the Provisional Constitutional President of Ecuador (María Borrero)*<sup>33</sup>

WASHINGTON, October 17, 1938.

I acknowledge the receipt of Your Excellency's telegram suggesting that this Government, together with the Governments of Argentina, Brazil, Chile and Uruguay, all of which had the privilege of lending their friendly services in the successful solution of the Chaco dispute, should now likewise assist in furthering the solution of the regrettable boundary controversy between the Governments of Ecuador and Peru. The friendship and confidence thus demonstrated by Your Excellency's Government are warmly appreciated.

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<sup>33</sup> Telegram repeated for information, October 17, 6 p. m., to the Embassy in Peru as No. 41, and to the Legation in Ecuador as No. 69.

The Government of the United States, in harmony I feel sure with the spirit which animates the peoples and governments of every other American republic, earnestly hopes that pacific solutions based on justice and fair dealing may promptly be found for those controversies which still exist between some of the American republics. Should the Governments of Ecuador and Peru both desire the friendly and disinterested assistance of some of their American neighbors in their effort to agree upon a method for the peaceful and equitable solution of their boundary dispute, the Government of the United States would be most happy to participate in such procedure, and to be associated in such endeavor with the governments of any other American republics of whom the Governments of Ecuador and Peru might jointly request this assistance.

I avail myself [etc.]

FRANKLIN D. ROOSEVELT

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722.2315/1241c : Telegram

*The Secretary of State to the Ambassador in Chile (Armour)*<sup>34</sup>

WASHINGTON, October 17, 1938—6 p. m.

63. You may express to the Minister for Foreign Affairs the appreciation of your Government for the opinions expressed in response to this Government's request for information as to the views of the Government of Chile with regard to the appeal made by the President of Ecuador to the Governments of Argentina, Brazil, Chile, Uruguay, and the United States to offer mediation in the boundary controversy between Ecuador and Peru. The views of all the five governments would seem to be entirely harmonious. The President is sending today the following reply to the President of Ecuador:

[Here follows text of telegram printed *supra*.]

HULL

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722.2315/1241b : Telegram

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

WASHINGTON, October 17, 1938—7 p. m.

121. From the Under Secretary. Please express to Aranha my very deep appreciation of the particularly helpful attitude which the Brazilian Government has taken in advising this Government so fully of its own views with regard to the Ecuadoran-Peruvian boundary dispute. I fully share his own belief that every appropriate constructive

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<sup>34</sup> The same, *mutatis mutandis*, October 17, 6 p. m., to the Embassy in Argentina as No. 159, and to the Legation in Uruguay as No. 49.

step should be taken by the American republics in urging a prompt solution of existing boundary controversies. I myself in conversation with the Peruvian Ambassador here have expressed our very earnest hope that Peru would not shut the door to the possibility of permitting other disinterested and friendly American Governments to try and cooperate in assisting Peru and Ecuador to find a satisfactory method for the solution of their dispute. It would be particularly regrettable at this moment in view of the general world situation and by reason of the successful solution of the Chaco controversy, if Ecuador were not to attend the Lima Conference and if the Conference were to adjourn without some prospect for a pacific solution of this particular controversy which has continued for so long a time and which, because of peculiar circumstances with which Aranha is fully aware, may assume serious proportions at some time in the future.

In view of the precipitancy of Chile in sending her reply, I fully understand the desire of the Brazilian Government not to delay in sending its reply. The President has today sent the following reply to the President of Ecuador:

[Here follows text of telegram printed on page 240.]

HULL

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722.2315/1242 : Telegram

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

SANTIAGO, October 19, 1938—5 p. m.

[Received 6:37 p. m.]

118. For the Under Secretary. I find the Foreign Office here somewhat disturbed over possible misunderstanding at Washington regarding Chile's apparent precipitation in replying to Ecuador before the other Governments. Their explanation is that from date of receipt of Ecuadorian proposal they were advised by Peruvian Embassy here that Peruvian Government was not disposed to collaborate in plan. With this definite knowledge Chilean Government felt that until they had given their reply to Ecuador they would not be in a position to approach the Peruvian Government to urge alternative solution or some form of truce which they are now in a position to do. I understand that Peruvian Ambassador to Chile, who is returning by air October 21st from Lima, has in fact been discussing the matter with Dr. Concha at Chilean instigation along lines suggested in my letter to you of October 4th,<sup>35</sup> and that Government here is hopeful that on his return he may bring some encouraging word from his Government.

ARMOUR

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<sup>35</sup> Not printed.

722.2315/1277a : Telegram

*The Acting Secretary of State to the Secretary of State*<sup>36</sup>

WASHINGTON, December 27, 1938—1 p. m.

102. Personal. The representatives of the Government of Ecuador have just been to see me to inquire whether it would not be possible for you, before you leave, to make one more effort to persuade the Peruvian Foreign Minister to reach some satisfactory understanding with the Foreign Minister of Ecuador for the adjustment of the boundary controversy along the lines which have been discussed with Dr. Concha<sup>37</sup> by Dr. Mello Franco.<sup>38</sup> I shall appreciate it, if it is possible for you to do so before you sail, if you will telegraph me what the situation may be with regard to the boundary controversy conversations so that I may be in a position to inform the representatives of Ecuador in Washington.

WELLES

722.2315/1278a : Telegram

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

WASHINGTON, December 27, 1938—1 p. m.

147. Please tell Aranha that I would greatly appreciate it if he would let you know for my information what results may have been obtained by Dr. Mello Franco in Lima in connection with the Peruvian-Ecuadoran boundary dispute. If it were possible for Dr. Mello Franco before he leaves to obtain some agreement in principle between the Peruvian and Ecuadoran Foreign Ministers it would be an achievement of the utmost significance and would provide, I believe, a satisfactory and rapid method for a definitive settlement of the dispute. Please telegraph such information as you may obtain.

WELLES

722.2315/1278 : Telegram

*The Secretary of State to the Acting Secretary of State*

LIMA, December 27, 1938—7 p. m.

[Received 11:30 p. m.]

74. Your 102, December 27, 1 p. m. As I am sure you appreciate, in order to secure adoption of the economic resolution, the declaration

<sup>36</sup> Then at Lima as Chairman of the Delegation of the United States to the Eighth International Conference of American States, December 9-27. See pp. 1 ff.

<sup>37</sup> Carlos Concha, Peruvian Minister for Foreign Affairs, Chairman of the Peruvian delegation, President of the Conference.

<sup>38</sup> Afranio de Mello Franco, Chairman of the Brazilian delegation.

of solidarity and the declaration of general principles we all worked day and night. I believe it might have been perilous to the success of the Conference to have requested Dr. Concha, whose support and influence has been very helpful, to give detailed consideration to the boundary situation until the major work of the Conference was resolved. There was a well-grounded report in this connection that Concha preferred to take no steps during the Conference lest he be charged with having been subjected to pressure by the Conference.

I have now discussed at length with Dr. Concha the boundary controversy. I have told him that the world situation requires that the peace of the Americas be maintained; that public sentiment in the Americas is unanimous in its insistence that there be peace on this hemisphere; that the Ecuador-Peru boundary dispute is the only major blight to the peace of the Americas; that because of its resources, strength and experience Peru should take the initiative although Ecuador of course should do its full part; and after complimenting Dr. Concha for his handling of the Conference, appealed to him to take upon his shoulders the responsibility for removing the last major obstacle towards peace in the Americas. Dr. Concha has assured me that the President is genuinely desirous of a settlement of the dispute and I believe that Dr. Concha was impressed by my personal appeal to him to take the initiative and endeavor to find a solution.

This morning I gave, in the strictest confidence, to the Foreign Minister of Ecuador and Dr. Ponce the gist, with certain necessary exceptions, of my conversation with Dr. Concha. They expressed what I believe was sincere appreciation of the steps that I have taken. It is my understanding that Dr. Tobar Donoso is thinking of requesting Dr. Ponce to remain in Peru for a short time in the hope that Dr. Concha will make reply to an informal memorandum setting forth a suggested formula for solution of the dispute presented by Dr. Tobar Donoso. In this memorandum the Ecuadoran Government proposed, first, renewal of direct negotiations, and secondly, mediation should those direct negotiations not arrive at any satisfactory conclusion within a stipulated period.

Under the circumstances I believe I have done all that I possibly can.

HULL

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722.2315/1279 : Telegram

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

RIO DE JANEIRO, December 28, 1938—11 a. m.

[Received December 28—10:55 a. m.]

298. For the Acting Secretary of State. Your 147, December 27, 1 p. m. In compliance with your suggestion Aranha will immediately

instruct Mello Franco to remain in Lima and endeavor to obtain an agreement in principle between the Peruvian and Ecuadorean Foreign Ministers. He will likewise instruct Mello Franco to keep in touch with the American Ambassador there.

SCOTTEN

### HONDURAS AND NICARAGUA <sup>39</sup>

715.1715/1111a : Telegram

*The Secretary of State to the Minister in Panama (Corrigan)*

WASHINGTON, February 12, 1938—2 p. m.

11. For Corrigan.<sup>40</sup> While this Government of course is desirous of contributing in every appropriate way to a solution of the long-pending boundary dispute, I prefer not to give you any specific instructions which might be misinterpreted by the other countries as indicating a desire on the part of this Government to dominate the negotiations. It is hoped that as a result of the further discussions there will emerge the basis of a settlement acceptable to both Governments. If at any stage during the developments the Commission has reason to believe that any particular formula might be satisfactory to both countries, it would seem entirely in order for such a suggestion to be made. In this connection it has occurred to me that the Commission might well explore the possibility of suggesting as a solution recognition by Nicaragua of the validity of the 1906 Award,<sup>41</sup> coupled with an undertaking on the part of Honduras to grant territory to Nicaragua in the region north of the Segovia River, where it is understood Nicaragua now claims to exercise *de facto* jurisdiction.

If it should appear that discussion of a definitive solution would not be practicable at this time, it is thought that the possible use of aerial mapping might be considered as furnishing a factual basis for subsequent examination of the territorial issue.

You should continue to report to the Department fully on all developments of importance and to submit for consideration any major proposals by the members of the Commission to which you may be called upon to agree.

HULL

<sup>39</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 56-119.

<sup>40</sup> Frank P. Corrigan, Minister in Panama, was also Special Representative of the President on the Mediation Commission in the boundary dispute between Honduras and Nicaragua.

<sup>41</sup> Award of December 23, 1906, *British and Foreign State Papers*, vol. c, p. 1096.

715.1715/1115 : Telegram

*The Special Representative of the President (Corrigan) to the Secretary of State*

SAN JOSÉ, February 15, 1938—4 p. m.

[Received 5:46 p. m.]

51. The Commission met this morning and after exchanging impressions decided to send identical telegrams to the Governments of Honduras and Nicaragua informing them that in accordance with the provisions contained in the minutes of the meeting of December 14, 1937, the Commission had set February 18 as the date of renewing its labors.

The Nicaraguan delegation are arriving by plane this afternoon; up to the present time the Commission has received no communication regarding the expected arrival of the Honduran delegation.

CORRIGAN

715.1715/1141

*The Special Representative of the President (Corrigan) to the Secretary of State*

No. 58

SAN JOSÉ, March 1, 1938.

[Received March 5.]

SIR: I have the honor to transmit copy with translation of the text of identical notes, Nos. 50 and 51, sent by the Commission to the Delegations of Honduras and Nicaragua on February 26, 1938. The notes, replies to which are expected sometime next week, were not released to the press.

Respectfully yours,

FRANK P. CORRIGAN

[Enclosure—Translation]

*The Mediation Commission to the Delegations of Honduras and Nicaragua*

No. 50

[SAN JOSÉ,] February 26, 1938.

EXCELLENCIES: We have the honor to inform Your Excellencies that the Mediation Commission in the meeting held on this date, adopted the following resolution:

“The Mediation Commission in the boundary dispute between Honduras and Nicaragua:

CONSIDERING: That mediation was agreed upon by the Governments of Costa Rica, the United States of America and the United States of Venezuela through identical cablegrams sent simultaneously to the Governments of Honduras and Nicaragua, dated October 21, 1937,<sup>42</sup>

<sup>42</sup> *Foreign Relations*, 1937, vol. v, p. 92.



the contents of which were repeated literally and definitely (*explicitamente*) accepted by these Governments in the respective communications dated the following day October 22, 1937,<sup>43</sup> from their Ministries of Foreign Relations;

That in the cablegram referred to in tendering the accepted mediation it was stated that they would proceed:

'In the hope that this question would facilitate a peaceful settlement of the boundary controversy which unfortunately had arisen between the two republics';

That in the same cablegram it is specified (*se determina*) as a proceeding (*como gestión*) of the mediating Governments in the final stage of the mediation, now in course to;

'Offer suggestions acceptable to both parties which may be adopted by Honduras and Nicaragua with the object of arriving at a definitive settlement of the controversy':

CONSIDERING: That in the ninth article of the Pact of Mutual Offers signed by the delegations of the two countries, before the Mediation Commission on December 10, 1937,<sup>44</sup> which was definitely accepted by the Governments of Honduras and Nicaragua, these countries agreed to:

'Solve the present conflict by pacific means as established by International Law':

CONSIDERING: That the documents referred to, which were definitely accepted by both Governments as previously expressed, are fundamental documents, to whose stipulations the Commission necessarily must confine itself in order to achieve the high objectives entrusted to it, for which it is indispensable to have knowledge of said dispute and the situation as it exists at the present time, in order to offer pursuant thereto suggestions with the object of arriving at a definitive settlement:

IT IS RESOLVED: To cordially invite the Delegations of Honduras and Nicaragua to present in writing to the Commission: (a) an exposition, as brief (*sin tética*) as possible, of the dispute in question; and (b) the pacific means as established by International Law, which in their opinion might be adopted in order to arrive at a definitive settlement, as previously stated."

With the request that Your Excellencies proceed in accordance with the resolution herein transcribed, it is a pleasure to express the testimony of our highest and most distinguished consideration.<sup>44a</sup>

*President of the Mediation Commission  
and Representative of Costa Rica.*

*Representative of the United  
States of America.*

*Representative of the United  
States of Venezuela.*

<sup>43</sup> *Foreign Relations*, 1937, vol. v, pp. 93 and 94.

<sup>44</sup> *Ibid.*, p. 112.

<sup>44a</sup> Signatures do not appear on file copy.

715.1715/1145a : Telegram

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

WASHINGTON, March 12, 1938—2 p. m.

19. For Corrigan. Please submit a brief telegraphic report of any developments since your despatch No. 58 of March 1, 1938.

Please include in your report any indication which may have been received of when the Commission expects to receive replies to its notes of February 26. The Department would also be interested in learning whether the Commission has given consideration to the course which will be adopted following the receipt of the replies.

HULL

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715.1715/1146 : Telegram

*The Special Representative of the President (Corrigan) to the Secretary of State*

SAN JOSÉ, March 13, 1938—8 p. m.  
[Received March 13—10:35 a. m.]

57. Referring to the Department's No. 19 of March 12, the Commission will meet on Monday, March 14, to receive the reply of both delegations pending which no definite plan of action has been adopted. When the nature of the replies is known a careful study and comparison of the two theses will be made before any suggestions can be offered, and I will undoubtedly need technical advice and the Department's instructions before making any commitments, especially since Dr. Rodriguez<sup>45</sup> has just disclosed to me that his intensive studies have convinced him of the nullity of the King of Spain's award and that he is ready to stake his reputation as an international lawyer on his finding.

While I personally have confidence in his ability and recognize the strength of his reasons, I pointed out to him that his view if known would produce a violent reaction in Honduras towards the mediation. His position so far is known only to me but he intends to impart it to our Costa Rican colleague on Monday.

As a further delay in the proceedings may be expected to give the Commission time to study the reports and to formulate suggestions I am of the opinion that the plenary sessions should be suspended, giving the delegations opportunity to return home during the interval.

This would also afford me an opportunity to confer personally concerning the question at this time provided no objections to this plan were perceived.

CORRIGAN

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<sup>45</sup> José Santiago Rodríguez, Venezuelan representative on the Mediation Commission.

715.1715/1146 : Telegram

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

WASHINGTON, March 18, 1938—6 p. m.

20. For Corrigan. Your No. 57, March 13, 8 p. m. The Honduran Minister has discussed with the Department the present work of the Conference and future plans. He indicated that he had received a letter from President Carias which passed on information forwarded the President by the Honduran delegation. Mr. Lozano stated that it seemed to his Government that the Conference was in fact undertaking now what his Government had been led to believe would be undertaken at a subsequent stage, namely, the settlement of the fundamental problem. In this connection the Minister rather pointedly reminded the Department that his Government had made it very clear when agreeing to accept the mediation last fall that it was not willing to discuss the fundamental problem at San José. The Minister was informed that your reports seemed to indicate that there would be a recess after both Governments had submitted replies setting forth in detail their respective points of view.

The Minister then went on to say that his Government was somewhat concerned by your proposal for an aerial map inasmuch as the line drawn by the Award of the King of Spain is precise, with certain minor exceptions. The Minister stated that his Government could only assume that the purpose of making an aerial map was in order to enable the Conference to suggest some other line. The Minister was informed that the aerial map made for use in drawing the boundary between Guatemala and Honduras had proved extremely helpful, but that of course if there was any objection on the part of either the Government of Honduras or the Government of Nicaragua to the making of a map at this time it was believed the Conference would be glad to defer action.

In view of the attitude of the Honduran Government as reported by the Minister, the Department inclines to the view that once the replies have been received it would be desirable to take a recess. Would it not be possible, however, prior to the recess for the Conference to determine when its next meetings should be held and at what place? Although the difficulties in changing the locale of the Conference are appreciated, the Department has confidence that you will be able to resolve this matter in a way satisfactory to all concerned.

If it should be decided to recess would it not be well to obtain from the delegates a reaffirmation of the agreement of December 10 and an extension of the limitation on the purchase of armament as well as clarification of the status of the Commission and the Secretariat during recess.

It is hoped that it will be possible for you to come to Washington soon after the recess to discuss the boundary problem in all its aspects.

HULL

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715.1715/1153: Telegram

*The Special Representative of the President (Corrigan) to the Secretary of State*

SAN JOSÉ, March 21, 1938—7 p. m.

[Received 10:23 p. m.]

59. Detailed replies of both delegations to the Commission's notes of February 26 were received this afternoon. The Honduran reply made no suggestion for a settlement other than execution on the *laudo*<sup>47</sup> and does not consent to a new discussion regarding "territorial rights already defined". The Nicaraguan reply suggests that the Mediation Commission acquire the character and be invested with the facilities of a tribunal competent to render a final decision, although it expresses a willingness to examine any other suggestion made by the Commission.

A profusion of supplementary documents and [maps?] accompanied both expositions. These will entail considerable study. The Commission will reconvene tomorrow.

CORRIGAN

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715.1715/1160: Telegram

*The Special Representative of the President (Corrigan) to the Secretary of State*

SAN JOSÉ, March 30, 1938—5 p. m.

[Received 10:35 p. m.]

61. After 10 days' study and informal discussions of the replies presented on March 21 it seems significant that no member of the Commission supports the Honduran thesis which demands strict application of the King of Spain's Award and admits of no other course. To date the Commission has been unable to find a solution of the situation created by the Honduran reply, but nevertheless opposed a recess; the Costa Rican member of the Commission preferring to send a formal note to the Honduran delegation pointing out in strong phraseology that its reply does not admit of mediation. I have objected to doing so at this time and have suggested recess as I am confident that such an "ultimatum" while fixing responsibility on Honduras for an impasse would cause the termination of these conferences.

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<sup>47</sup> Award of December 23, 1906, *British and Foreign State Papers*, vol. c, p. 1096.

I do not think it wise or necessary to put Honduras in this position yet, since informal conversations with the Honduran delegates encourage me to believe that a formula may be found. Such a formula might be based on creation of a special area or zone along both sides of the Segovia River allowing free trade in the valley, free navigation on the river and demilitarization of the zone.

CORRIGAN

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715.1715/1166: Telegram

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

WASHINGTON, April 1, 1938—1 p. m.

22. For Dr. Corrigan. Your 60, March 23, 9 p. m.,<sup>48</sup> and 61, March 30, 5 p. m. In order to have before it all of the information possible in considering your telegrams under reference the Department during the last few days has had conversations with the Ministers of Costa Rica, Honduras and Nicaragua. As a result of these conversations and of careful consideration of your reports, the Department firmly believes that it would be a mistake for the Commission to draw up a formal project for presentation to the two delegations. As a result of the Department's experience in other efforts of a somewhat similar nature, it is convinced that a permanent and satisfactory solution of boundary difficulties must have the full support of the governments concerned. A solution not based upon mutually acceptable principles will meet with opposition and rejection by either one party or the other. In the extension of good offices which the Commission is conducting the objective should be the attainment of a satisfactory solution. If this is the objective the determination of the responsibility for an impasse has no place.

In securing the Agreement of December 10, the Commission accomplished the first objective of allaying existing tension, and it is believed that a final solution of the basic problem can be achieved with patience and continuous effort, even though that may take weeks or months.

It would seem to the Department that the best procedure that the Commission can follow is to call an immediate recess of the plenary sessions. The Honduran and Nicaraguan delegations could be informed that in view of the extensive nature of the replies which they have presented, the Commission will require considerable further time for the careful study that the matter deserves, which would permit the two delegations to return to their respective countries should they so desire. The recess would present opportunity for further careful examination of the replies and for the formulation by the Commission

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<sup>48</sup> Not printed.

of a proposal or proposals which might serve as a basis for a settlement. Once the Commission's views have become clarified it would then seem desirable that all of the members of the Commission proceed together to each of the capitals, there to engage in informal and oral discussions during which the views of the disputant countries would be ascertained with regard to the several formulas for settlement. One of the advantages of these informal discussions would be that the members of the Commission would have an opportunity to confer directly with the Presidents and the guiding statesmen in both countries. Experience has shown that the chiefs of state and those responsible for formulating policy are usually able to take a more flexible point of view than their delegations which necessarily must closely follow instructions. It is hoped that out of these discussions will emerge the framework of a definitive settlement.

Unless you see some reason to the contrary, of which you should inform the Department at once by cable, the Department desires you to proceed along the lines above indicated. You are also instructed to submit to the Department, with ample time for consideration prior to the suggested visits to the disputant countries, such tentative proposals as the Commission may draw up. After you have completed the visits it would be desirable for you to come to Washington in order to go over with the Department in detail the results thereof.

The Ministers of Costa Rica, Honduras, and Nicaragua in Washington are believed to be in general accord with the above procedure.

With regard to the question of possible objection by Honduras to further discussions at San José it is understood that the Honduran Minister is suggesting to his Government that, should it wish to express any views at this time, proper instructions should be sent to its delegation for conveyance to the Commission. However, it was pointed out that if the procedure above mentioned were adopted, this question might be left in abeyance until the conclusion of the conversations in the two capitals.

HULL

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715.1715/1168 : Telegram

*The Special Representative of the President (Corrigan) to the  
Secretary of State*

SAN JOSÉ, April 6, 1938—7 p. m.  
[Received April 7—9:15 a. m.]

63. At a meeting of the Mediation Commission on Monday April 4, following instructions in the Department's telegram of April 1, I brought up the matter of a recess, but the suggestion was not welcomed. The Commission decided to confer semi-formally with the Honduran delegation on Wednesday April 6. After a 2-hour session today with

the Honduran delegation the only result obtained was a reaffirmation of their well-known stand on the 1906 award. After the departure of the Hondurans I again suggested the appropriateness of a recess, and this time after their failure to move the Hondurans my colleagues were more receptive. A session will be held tomorrow with the Nicaraguan delegation, when I believe agreement to a recess can be obtained.

The Costa Rican Foreign Minister stated after the meeting that his Government would be embarrassed politically by a failure and would like to withdraw from the League after placing responsibility on the intransigency of the Honduran Government. He assured me that the President of Costa Rica feels the same. Even with a prior understanding that the Commission should not make any commitments at this morning's meeting it was difficult for the Costa Rican member of the Commission to refrain from putting Honduras definitely in that position. In his unsuccessful attempt to modify rigidity of the Honduran position he made it clear that in his opinion and that of the President of Costa Rica the Honduran stand did not admit of mediation and there was at least a covert threat of possible withdrawal by Costa Rica. He alleged that the acceptance by Honduras of the tender of good offices for a solution of the dispute (implying conciliation) and their present demand for execution of the King of Spain's award as the only solution acceptable were inconsistent. From what he said it would be quite possible for the Hondurans to consider their case prejudiced before the Mediation Commission; an interpretation which they may have reported.

The attitude of the Costa Rican Government imperils the continuance of mediation and in my opinion makes almost imperative an interruption of this phase of the conferences. I shall therefore press tomorrow for the recess which the Department has advised.

CORRIGAN

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715.1715/1169: Telegram

*The Special Representative of the President (Corrigan) to the Secretary of State*

SAN JOSÉ, April 7, 1938—1 p. m.

[Received 3:30 p. m.]

64. At the meeting of the Commission this morning the Nicaraguan delegation agreed with the Commission to a recess. At tomorrow's session the attitude of the Honduran delegation will be ascertained and if favorable an act will be signed that afternoon by the two delegations and the Commission suspending the plenary sessions for a period of 2 months.

CORRIGAN

715.1715/1169 : Telegram

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

WASHINGTON, April 7, 1938—7 p. m.

23. For Corrigan. Your 63 [64], April 7, 1 p. m. It is hoped that the agreement of the Honduran delegation to a recess can be obtained without effort on the part of the Costa Rican member of the Commission to make it appear that the Honduran Government has been intransigent or rigid in its attitude.

Before authorizing you to come to Washington the Department desires to have your considered views after an exhaustive canvass of the situation with the other two members. The purpose of this careful study, as stated in the Department's telegram no. 22, April 1, 1 p. m., is to elaborate the possible bases of a solution that might be taken up with the two disputant countries at their respective capitals.

There has been no indication from you as to whether action will be taken prior to the recess along the lines indicated in the penultimate paragraph of the Department's no. 20, March 18, 6 p. m. The Department strongly believes that this action is highly desirable.

HULL

715.1715/1173 : Telegram

*The Special Representative of the President (Corrigan) to the Secretary of State*SAN JOSÉ, April 8, 1938—6 p. m.  
[Received 9:31 p. m.]

65. Complete and friendly accord on a recess for 2 months was obtained and an act suspending plenary sessions to give ample time for necessary studies was signed at 4 p. m. this afternoon by both delegations and the members of the Mediation Commission. Press informed. Travel authorization requested.

CORRIGAN

715.1715/1174 : Telegram

*The Special Representative of the President (Corrigan) to the Secretary of State*SAN JOSÉ, April 8, 1938—7 p. m.  
[Received April 9—8:50 a. m.]

66. Referring to the first paragraph of the Department's No. 23, April 7, by agreement between the Commission and both delegations a recess begins tomorrow.



Referring to the second paragraph of the Department's telegram in reference an exhaustive canvass of the situation with the other two members has been going on for the past 7 weeks and I am thoroughly familiar with their views. No definite bases nor clear-cut plans can be elaborated that would be acceptable to both Governments as a solution at the present moment. The direct negotiations suggested by the Department may produce a formula of compromise to which both Governments can agree.

The Venezuelan member of the Commission has expressed a desire to place his views personally before the Department. I think it would be desirable since his juridical study has been very complete.

The wavering attitude of the Costa Rican Government which developed toward the mediation since the visit of the Panaman Foreign Minister imperils success. If the Department perceives no objection I should like to present this delicate matter personally. Please expedite travel instructions.

CORRIGAN

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715.1715/1174: Telegram

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

WASHINGTON, April 11, 1938—3 p. m.

24. For Corrigan. Your 66, April 8, 7 p. m. You will be authorized to proceed at once to Washington for consultation, following which it is hoped that it will be possible for you to make the visits with other members of the commission to Tegucigalpa and Managua as suggested in Department's no. 22, April 1, 1 p. m.

The Department is confident that you will be able to explain tactfully to Dr. Rodriguez that, while his offer to come to Washington is appreciated, it is feared that his visit at this time might be misinterpreted by the other governments concerned.

Please cable date you expect to arrive in Washington.

HULL

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715.1715/1251

*Memorandum by the Special Representative of the President  
(Corrigan), Temporarily in Washington*

[WASHINGTON,] May 12, 1938.

I have the honor to report in brief on the state of affairs at San José between the submission of briefs of the delegates and prior to adjournment of the plenary sessions of the Mediation Commission. The mediation had reached the point where continuance of the conferences could

have had no other result than complete failure to obtain the desired settlement. This serious threat of failure was brought about by the interaction of two factors: (1) Inability to obtain the slightest concession of Honduras from the immovable position taken at the outset; and (2) The determination of the Costa Rican Government to force the issue and pillory the Honduran Government for its intransigency, fixing the blame for failure upon Honduran obstinacy so that Costa Rica and the other mediators would escape any responsibility in the matter. This program was not at all in harmony with the desire for a definite settlement and was adopted rather selfishly for reasons of local political considerations. The Venezuelan member of the Commission could not bring himself to believe that the position of the Honduran delegates was immovable. He gave a grudging consent to a recess only after a three-hour session of the Commission with the Honduran delegation had finally convinced him of the uselessness of further conversations. It required three weeks of tactfully applied effort and a final determined statement of opinion to win consent of the other mediators to a conference with the disputant delegations as to their willingness to recess. The reason advanced for postponement was the need of minute studies and technical consultations regarding the briefs and "annexes" which had been presented to the commission by the delegations. The Nicaraguan delegation was quite willing to recess providing it could be done by an act of mutual accord, adopted and signed by both delegations and the members of the Mediation Commission so as to eliminate possible adverse comment. The Honduran delegation, after a little hesitation, agreed to this plan and an act of postponement of the plenary sessions for two months was drawn up and signed in a formal session to which representatives of the press were admitted. The recess, obtained with such difficulty, undoubtedly saved the situation and insured the continuance of the Mediation. After the recess Dr. Rodriguez, the Venezuelan representative, received several telegrams from Señor Gil Borges, Venezuelan Minister of Foreign Affairs, instructing him to oppose a recess. Even after the recess was a fact, he was ordered to remain in San José. The instructions forbidding his consent to a recess fortunately arrived too late to prevent the recess and only served to embarrass and disturb Dr. Rodriguez very greatly. They may have been the result of unwarranted optimistic reports previously sent to his government by the Venezuelan representative.

In the course of a series of informal conversations with the various delegates following the recess, and during a conversation in my office in the Grand Hotel de Costa Rica on April 13, 1938 it was intimated to me by Dr. Julián López Pineda of the Honduran delegation that it might be acceptable to Honduras to agree to pay indemnities to

Nicaraguan interests on the north side of the Segovia and to consent to a common administration of that river with freedom of navigation thereon. This was the first intimation of a possible concession by Honduras and it may be the entering wedge toward attaining an acceptable compromise.

In view of the above, it is evident that a renewal of the plenary sessions on June 9 without having some definite commitments in advance would place the mediation in the same perilous position from which it was rescued by the Act of Recess of April 9. Efforts to secure a further postponement of the date for renewal of the plenary sessions seems to be an urgent requirement. In this connection it would be reasonable for the Department to state very frankly to both the disputants and the other mediating governments that suggestions for the final settlement of such an important matter could not be made by the representative of his government nor could he be instructed to agree to suggestions advanced by the other mediators until adequate legal and other technical studies of the positions advanced by the disputant governments were satisfactorily completed. Since it is impossible to state at this moment the time necessary for these studies, we should ask that the date of renewal of the San José conferences be left open for the present.

As a first step I suggest that the co-operation of the Venezuelan and Costa Rican Ministers in Washington be sought. To this end they might be invited to come to the Department in order to acquaint them with the steps now being taken and to secure through them the agreement of their governments on a decision to postpone the date for renewal of the plenary sessions, following which, the President of the commission can inform the governments of Honduras and Nicaragua of this decision.

FRANK P. CORRIGAN

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715.1715/1251

*Memorandum by the Chief of the Division of the American Republics  
(Duggan) to the Under Secretary of State (Welles)*

[WASHINGTON,] May 16, 1938.

MR. WELLES: There is attached a memorandum <sup>49</sup> by Dr. Corrigan recommending that immediate steps be taken to bring about a postponement of the next meeting of the Mediation Commission now scheduled for June 9. He suggests that this be accomplished through the Venezuelan and Costa Rican representatives in Washington by requests for approval from their Governments. If those Governments

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<sup>49</sup> *Supra.*

are in agreement the Governments of Honduras and Nicaragua would then be informed of the decision.

It is Dr. Corrigan's view, which is not discussed in the attached memorandum, that the question of extending the Protocol of Dec. 10, 1937, should not be taken up until after postponement has been obtained. He feels that if the two subjects are treated simultaneously failure will be the result.

If you can spare the time I think it would be advisable at this juncture to have a session with Dr. Corrigan, during which these two matters could be discussed. At the same time there might be discussed the attitude to be taken by this Government in connection with future violations of the December 10 protocol with regard to the purchase of arms. Under separate cover I am sending down an application for the export of three military training airplanes to Honduras which clearly involves the violation of the protocol.

L[AURENCE] D[UGGAN]

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715.1715/1218a : Telegram

*The Secretary of State to the Minister in Honduras (Erwin)*<sup>60</sup>

WASHINGTON, June 1, 1938—11 a. m.

12. Please seek an audience with the Minister for Foreign Affairs and tell him informally that consideration is being given to the desirability of postponing the resumption of the conferences at San José which had been scheduled for June 9 in view of the fact that the studies which are being made of the briefs submitted by the delegates of Nicaragua and Honduras to the Boundary Commission have not been completed. It is assumed that notification of postponement will be received by the Honduran Government directly from the Commission. In your conversation with the Foreign Minister you should add that this information is transmitted to the Government of Honduras solely for the convenience of its delegates to the San José conference.

HULL

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715.1715/1219 : Telegram

*The Assistant to the Special Representative of the President (Ocheltree) to the Secretary of State*

SAN JOSÉ, June 3, 1938—noon.

[Received 3:15 p. m.]

68. Referring to a telephone conversation this morning with Dr. Corrigan, the Mediation Commission met yesterday, June 2nd, and in

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<sup>60</sup> The same, *mutatis mutandis*, on the same date, to the Chargé in Nicaragua as telegram No. 40.

a formal act resolved to postpone the date of renewing the plenary sessions of the conferences until further notice. Dr. Corrigan's notes of May 23rd dated in Washington to the other members of the Commission are to be inserted in the act, showing as the President of Commission explained to me this morning that Dr. Corrigan was in agreement with the resolution.

Notice of this action was sent to the Minister of Foreign Affairs at Tegucigalpa yesterday by telegram, and to Dr. Cordero Reyes, delegate of Nicaragua, now at San José in a note dated June 2, signed by the representative of Costa Rica and President of the Commission and by the representative of Venezuela. A similar note is being sent to Tegucigalpa. The note gives as the reason for postponement the notes of May 23 from Dr. Corrigan explaining that the studies being carried out in the Department required more time and suggesting a postponement.

Dr. Rodriguez said that the local press would be informed today of the Commission's action.

OCHELTREE

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715.1715/1223 : Telegram

*The Assistant to the Special Representative of the President  
(Ocheltree) to the Secretary of State*

SAN JOSÉ, June 7, 1938—11 a. m.

[Received 2:05 p. m.]

71. As reported in my telegram No. 68, June 3, the Mediation Commission met in formal session on June 2 and on the basis of notes from the American representative resolved to postpone the reconvening of the plenary sessions. This action was communicated to the Nicaraguan delegate at San José and to the Secretary of Foreign Relations at Tegucigalpa. Might not this procedure be used in an endeavor to secure agreement to an extension of the period for non-purchase of war materials which expires on June 10?

Dr. Rodriguez is not leaving San José until June 13 and Dr. Cordero Reyes will remain until the end of the week.

OCHELTREE

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715.1715/1223 : Telegram

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

WASHINGTON, June 9, 1938—3 p. m.

26. For Ocheltree. It has been suggested to the Department by the Nicaraguan Minister in Washington that the absence of any indication of the probable duration of the postponement announced in

the Commission's note of June 2 may give rise to misunderstanding in Central America of the real intentions of the Commission. Please call on Dr. Zuniga Montufar and convey to him the suggestion that as President of the Commission he may wish to consider the desirability of informing the press that it is hoped that the studies of the various phases of the situation and conferences relating thereto will have advanced to such a point that it will be possible for the Commission to be able to report real progress in the not distant future, probably by September 1. Such a statement would of course be made on behalf of the entire Commission without reference to the desires or suggestion of any one member thereof.

With reference to your telegram no. 71 of June 7, 11 a. m., please discuss with Dr. Zuniga Montufar and Dr. Rodriguez the question of the extension of the provision of the agreement of December 10, 1937 with regard to purchase of armament. It is felt that assurances by the governments of Honduras and Nicaragua to the Commission that no purchase of armaments would be made other than for normal and necessary replacement purposes would greatly reassure public opinion throughout the Americas. Such assurances would of course be highly gratifying to the governments of the countries participating in the work of the Commission.

Please report results of conversations by telegraph.

HULL

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715.1715/1229 : Telegram

*The Assistant to the Special Representative of the President  
(Ocheltree) to the Secretary of State*

SAN JOSÉ, June 10, 1938—4 p. m.

[Received 10:15 p. m.]

72. Referring to the Department's No. 26 of June 9, Señor Zuniga Montufar said he would give a statement to the press this afternoon along the lines suggested.

With reference to an extension of the provision with regard to purchase of armaments he said that Dr. Cordero Reyes had raised this question. The President of the Commission informed me that in his opinion it would be unwise for the Commission to take the initiative in the event a negative response were provoked. He therefore had recommended that Dr. Cordero Reyes take up the question with the Honduran Government with a view to ascertaining the attitude of that Government before the Commission take any action.

Dr. Rodriguez preferred not to comment until he had conferred with the Chancellor. He suggested the Commission might meet tomorrow.

OHELDTREE

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715.1715/1232 : Telegram

*The Assistant to the Special Representative of the President  
(Ocheltree) to the Secretary of State*

SAN JOSÉ, June 13, 1938—9 a. m.

[Received 12:50 p. m.]

73. Referring to my telegram No. 72, June 10, 4 p. m. The President of the Commission has not yet made the statement to press.

I suggested yesterday to Dr. Rodriguez that it should not be difficult for the Commission to obtain agreement to extend the period of non-purchase of armaments by addressing notes to both Governments revealing that the acceptance of either Government would not be binding until accepted by the other. I explained that I would have to refer this suggestion to Dr. Corrigan for his approval. Dr. Rodriguez seemed to be interested in the suggestion and said he would discuss it with the Chancellor on the train today from San José to Cartagena.

Dr. Cordero Reyes left yesterday by plane for Nicaragua.

OHELDTREE

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715.1715/1233 : Telegram

*The Assistant to the Special Representative of the President  
(Ocheltree) to the Secretary of State*

SAN JOSÉ, June 13, 1938—noon.

[Received 3:40 p. m.]

74. Dr. Rodriguez discussed this morning with the Chancellor the suggestion made in my telegram No. 73 of today regarding a renewal of article 3 of the pact of December 10 and said he had given his consent to the suggestion. The President of the Commission, however, reiterated his views as given in my telegram number 72, June 10, 4 p. m.

No further action can be expected from the Commission for the present as Dr. Rodriguez left for Caracas today and Señor Zuniga Montufar is waiting for a reply to his letter of June 10<sup>51</sup> to Dr. Corrigan.

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<sup>51</sup> Not printed.

I requested the chief clerk of the Mediation Commission to remind the Chancellor of the statement to the press.

OCHELTREE

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715.1715/1232 : Telegram

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

WASHINGTON, June 14, 1938—6 p. m.

27. For Ocheltree. Your no. 74, June 13, noon. Please inform Dr. Zuniga Montufar that the question of the extension of the provision of the agreement of December 10, 1937 with regard to purchase of armament has been discussed with both the Honduran and Nicaraguan Ministers in Washington. The Honduran Minister has now informed the Department that he has received a cable from his Government stating that it "will extend Article 3 of the agreement." In view of the previous indication from Dr. Cordero Reyes that the Nicaraguan Government is also favorable to extension, it is felt that Dr. Zuniga Montufar, on behalf of the Commission, can now approach both Governments with confidence that the proposal will be accepted. You may also state that it is the view of this Government that it would be preferable if no time limit were placed on the agreement.

It would be appreciated if arrangements could be made for the Department to be promptly informed when agreement is reached in order that appropriate publicity can be made in this country.

In announcing the agreement Dr. Zuniga Montufar may wish at the same time to make a statement to the press referred to in paragraph 1 of the Department's no. 26, June 9, 3 p. m.

On behalf of Dr. Corrigan please inform Dr. Zuniga that his letter of June 10<sup>52</sup> has been received.

HULL

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715.1715/1244 : Telegram

*The Assistant to the Special Representative of the President  
(Ocheltree) to the Secretary of State*

SAN JOSÉ, June 21, 1938—1 p. m.

[Received 3:05 p. m.]

80. Referring to Department's telegram No. 27, June 14, 6 p. m., the President of the Commission received telegrams this morning from the Governments of Honduras and Nicaragua agreeing to the extension of article No. III of the pact December 10, 1937. Honduras accepted for a further period of 6 months; Nicaragua accepted without

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<sup>52</sup> Not printed.



time limit. This information will be released to local press probably today.

OCHELTREE

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715.1715/1248a : Telegram

*The Secretary of State to the Minister in Venezuela (Gonzalez)*

WASHINGTON, June 22, 1938—noon.

35. From the Under Secretary. Please call on Dr. Gil-Borges and on my behalf convey to him the suggestion that it would be very useful, for Dr. Rodriguez, the Venezuelan delegate to the Mediation Commission at San José, to come to Washington to examine, in company with the Costa Rican Minister here and Dr. Corrigan, our representative on the Commission, various studies and data that are being compiled bearing upon the boundary dispute between Nicaragua and Honduras. It is my hope that out of this examination there may emerge some proposal for a definitive settlement of the boundary dispute which might then be submitted to the governments of Nicaragua and Honduras.

Inasmuch as the Costa Rican Minister has urgent business that will require his return for a short time to Costa Rica, please endeavor to ascertain from Dr. Gil-Borges his reaction to my suggestion and, if favorable, when Dr. Rodriguez may be expected to arrive in Washington. It would be extremely helpful to the Costa Rican Minister in making his plans if I could have a telegraphic reply from you by Thursday.

HULL

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715.1715/1249 : Telegram

*The Minister in Venezuela (Gonzalez) to the Secretary of State*

CARACAS, June 23, 1938—4 p. m.

[Received 9:30 p. m.]

53. For the Under Secretary. Your cable No. 35, June 22, noon. Suggestion presented to Minister of Foreign Affairs and accepted. Although Dr. Rodriguez was about to leave for his new post as Venezuelan Minister to Colombia he will leave for Washington by plane on Monday June 27 for purpose of conference and arrive Washington that evening.

Dr. Gil-Borges received word from Minister of Foreign Affairs of Costa Rica that article XIII of the treaty of amnesty between Honduras and Nicaragua having expired agreement has been made to extend operation of said article for another 6 months.

GONZALEZ

715.1715/1305a : Telegram

*The Secretary of State to the Minister in Panama (Corrigan)*

WASHINGTON, August 15, 1938—6 p. m.

43. In the course of a conversation upon his return from Costa Rica, Sr. Castro Beeche<sup>53</sup> expressed the opinion that it would be extremely desirable for you to proceed to San José as soon as possible to discuss plans for the future work of the Commission with the Minister for Foreign Affairs. He said that the Minister for Foreign Affairs is under the impression that this Government does not sincerely desire the Commission to proceed with its efforts to bring about a successful conclusion of the boundary controversy.

This wholly erroneous impression seems to have been derived from the attitude taken by you under the Department's instructions at the meeting of the Commission last spring. At that time, it will be recalled, consideration was being given by the Costa Rican and Venezuelan members to fixing responsibility for the existing impasse, which would unquestionably have resulted in the retirement of Honduras from the mediation. The Department suggested the advisability of a recess during which consideration could be given by the three Governments to the steps that might be taken to bring about a definitive solution of the boundary dispute.

The Costa Rican Minister states that he endeavored in every possible way to disabuse Señor Zuñiga Montufar of his misapprehension, but he feels that he was only partially successful. Although the President fully understands what took place, the reasons therefor, and the very urgent desire of this Government that the boundary dispute be satisfactorily adjusted, Dr. Castro Beeche believes that an informal but frank exchange of views between you and the Foreign Minister would have the effect of clearing up any misunderstanding of our position. He does not wish it to be known, however, that the suggestion has come from him as he feels that your visit would be more effective were it to appear that it was made entirely on your own initiative.

I feel that in view of the apparent uncertainty with regard to the position of the Foreign Minister toward the future work of the Commission you should proceed as soon as possible to San José to discuss the subject with him. Before doing so, however, it is desired that you consult with and inform Dr. Rodriguez of what you propose to do, and the reason therefor, in order that there may be no misunderstanding in that quarter. This visit will not of course take the place of your later visit to San José with Dr. Rodriguez, and you may wish to

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<sup>53</sup> Costa Rican Minister.

make it clear to Dr. Rodriguez that the present visit is solely for the purpose of a preliminary discussion with Señor Zuñiga Montufar of the results of your recent conferences in Washington.

Please report by telegraph as soon as you decide on the date of your departure for San José.

HULL

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715.1715/1313 : Telegram

*The Minister in Panama (Corrigan) to the Secretary of State*

PANAMA, August 24, 1938—4 p. m.

[Received August 25—7 a. m.]

89. I am informed by Ocheltree that Zuniga Montufar wishes to postpone further action on the Honduras-Nicaragua boundary mediation until after the Lima Conference in December.

I am planning to visit San José this weekend in compliance with the Department's telegram No. 43, August 15, 6 p. m.

Before talking with Zuniga Montufar, I should be glad to have the Department's views as to how strong a position should be taken against such postponement.

A threatened opposition campaign in Costa Rica against the proposed Costa Rica-Panama boundary settlement may be reflected by an atmosphere unfavorable to successful negotiations concurrently in the Honduras-Nicaragua dispute. Accordingly the Department might consider it prudent to await disposal of the Panaman-Costa Rican boundary proposal by the respective national congresses, which it is understood will consider matter following convention in September, before taking any decided stand as to date of reconvening Mediation Commission.

I think, however, that it should be made clear that the United States is ready to proceed at any time that suits the convenience of the other countries participating in the mediation and that [delay?] or further postponement is not of our seeking and will be in deference to the convenience of our colleagues.

CORRIGAN

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715.1715/1313 : Telegram

*The Secretary of State to the Minister in Panama (Corrigan)*

WASHINGTON, August 26, 1938—6 p. m.

49. Your 89, August 24, 4 p. m. The plans discussed with you and embodied in Department's unnumbered instruction dated October 25, 1937,<sup>54</sup> provide for informal consultation in San José with Rodriguez

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<sup>54</sup> *Foreign Relations*, 1937, vol. v, p. 97.

and Zuniga Montufar and then for informal visits to the capitals of the two disputant countries.

Inasmuch as Dr. Rodriguez already is favorably disposed to the procedure discussed here in the Department, it was believed that the consultation in San José should be brief since no reason is known why Zuniga Montufar should have objection to this procedure. Although the Costa Rica-Panama dispute has some points of contact with the Nicaragua-Honduras dispute, the Department does not believe that the public discussion regarding the proposed Costa Rica-Panama settlement should have any determining influence upon the course of developments of the Nicaragua-Honduras dispute.

The interest of the Department in the early settlement of the Nicaragua-Honduras dispute has been clearly manifested to the representatives of the two countries concerned on numerous occasions, including the luncheon given in honor of Dr. Rodriguez and attended by the diplomatic representatives of the two countries in Washington. The Department has recently reassured the Nicaraguan Government of its sincere desire to bring this dispute to a satisfactory adjustment, that Government having pointed out that its public opinion is becoming restless at the inactivity of the Commission.

The Department continues of the belief that the Commission should exert itself to bring about a settlement of this dispute within the shortest possible time limit and along the lines outlined in the instruction of October 25, 1937. Consideration of course will be given to any information as a result of your forthcoming trip to San José which would in your opinion make this course inadvisable.

HULL

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715.1715/1318 : Telegram

*The Special Representative of the President (Corrigan) to the  
Secretary of State*

SAN JOSÉ, August 30, 1938—2 p. m.

[Received 4 p. m.]

84. Zuniga Montufar wishes to postpone any action regarding the Honduran-Nicaraguan controversy because he will be completely occupied during an undetermined part of the month of September with the Panama-Costa Rica boundary settlement (reference special mission despatch No. 99 of August 23rd).<sup>55</sup> His attitude is satisfactory and he has agreed to devote the month of October to the work of the Mediation Commission. He has tentatively agreed to the whole pro-

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<sup>55</sup> Not printed.

gram which I outlined but wishes to have the sanction of President Cortes before making a definite commitment. I am staying over for a conference which he has arranged with the President and will leave San José on Thursday.

CORRIGAN

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715.1715/1319: Telegram

*The Special Representative of the President (Corrigan) to the Secretary of State*

SAN JOSÉ, August 31, 1938—3 p. m.  
[Received 7:11 p. m.]

85. Referring to my telegram No. 84, August 30, 2 p. m., at conference held yesterday afternoon with President Cortes in company with Zuniga Montufar we informed the President regarding the program for renewing the mediation conferences in October. The President gave ample assurance of his complete and continuing support and approved the idea of Zuniga Montufar accompanying Dr. Rodriguez and myself on proposed visits to Tegucigalpa and Managua.

Today we confirmed the details of the program which the President of the Mediation Commission will submit to Dr. Rodriguez by letter. Subject to his approval October 3rd was tentatively set as the date for the three members of the Commission to convene in San José and formally adopt a program.

CORRIGAN

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715.1715/1346a: Telegram

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

WASHINGTON, October 19, 1938—1 p. m.

42. For Ocheltree. Dr. Corrigan is sailing on October 22 from New York en route to Panama on the SS *Chiriqui*, due Port Limón the morning of October 29. He requests that you inform Dr. Zuñiga Montufar that if entirely agreeable he would be very happy to proceed to San José the same day to discuss plans for the future work of the Commission, in particular, the program submitted to him by Dr. Corrigan on the occasion of his last visit to San José.

Dr. Corrigan would like you to meet him at the steamer upon his arrival in order to acquaint him with the latest developments in the Costa Rican situation.

Dr. Corrigan plans to continue to Panama on the same ship. He will be accompanied by Mrs. Corrigan.

HULL

715.1715/1347: Telegram

*The Assistant to the Special Representative of the President  
(Ocheltree) to the Secretary of State*

SAN JOSÉ, October 20, 1938—10 a. m.

[Received 4:40 p. m.]

94. Referring to Department's telegram No. 42, October 19, 1 p. m., please inform Dr. Corrigan that Dr. Zuniga Montufar regards his proposed visit to San José as opportune and very advantageous. He has offered to meet with him either in Port Limon or San José whichever Dr. Corrigan prefers.

Dr. Zuniga Montufar is of the opinion that it would be inopportune to resume the mediation at this time. He pointed out the similarity of the Costa Rica-Panama and the Honduras-Nicaragua boundary disputes, his connection with the failure of the former settlement, his view that arbitral awards are not [inviolable?] and the attacks to which he is being subjected in a semi-official organ of the Honduran press. He hopes that a principle may be established or an expression of opinion obtained at Lima which will improve the position of the mediation and assist in a settlement of the Honduran-Nicaraguan controversy. I asked him to reserve final judgment until Dr. Corrigan's visit. He agreed remarking that he could thus obtain the views of the Secretary of State.

He said that one of the questions he will raise with Dr. Corrigan is whether Costa Rica should continue in the mediation. If Dr. Corrigan considers that it would be in the best interests of the mediation he would withdraw. He remarked that Nicaragua is opposed to Costa Rican withdrawal and that Honduras undoubtedly desires it but that five countries are concerned and in any event he does not desire to act contrary to the desires or policy of the United States. He believes that an abrupt ending of the mediation at this time might lead to war between Honduras and Nicaragua.

Referring to my despatch No. 102 dated September 24<sup>56</sup> he has not yet received a reply from Dr. Rodriguez.

OCHELTREE

715.1715/1347: Telegram

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

WASHINGTON, October 25, 1938—7 p. m.

44. For Ocheltree. Reference your telegram no. 94, October 20, 10 a. m. Please inform the Minister for Foreign Affairs that Dr. Corrigan sincerely appreciates his offer to come to Port Limon but

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<sup>56</sup> Not printed.

that he will be very glad to proceed to the capital on the tourist train which it is understood will leave Port Limon shortly after arrival of the steamer. You are also requested to inform the Minister for Foreign Affairs that Dr. Corrigan was obliged to postpone his departure for 1 week and that he now plans to leave New York on the SS *Talamanca* on October 29 due Port Limon the morning of November 5.

HULL

715.1715/1862

*Memorandum of Conversation, by the Chief of the Division of the American Republics (Duggan)*

[WASHINGTON,] November 2, 1938.

The Minister<sup>87</sup> went over with me the status of the Nicaragua-Honduras boundary negotiations. He added little to the information in the possession of the Department except to confirm definitely that Dr. Zuniga Montúfar had desired, after the rumpus in Costa Rica over the proposed treaty with Panama, to withdraw from the mediation proceedings. He was overruled by the President, who had written Dr. Castro Beeche that as long as he occupied the Presidency, Costa Rica would not withdraw from the mediation.

The Minister reminded me that Sr. Zuniga Montúfar would be present at the Lima Conference<sup>88</sup> as head of the Costa Rican Delegation and suggested that the Secretary might take occasion to bolster Dr. Zuniga Montúfar's morale by impressing upon him the responsibility of all the American nations for the peaceful solution of pending boundary difficulties.

I told the Minister that I expected to attend the Lima Conference and that I would bear his suggestion in mind, and that I was confident the Secretary would be glad to have a talk with Dr. Zuniga Montúfar.

L[AURENCE] D[UGGAN]

715.1715/1857 : Telegram

*The Special Representative of the President (Corrigan) to the Secretary of State*

SAN JOSÉ, November 6, 1938—1 p. m.

[Received 8:53 p. m.]

95. I held a conference at 6 o'clock last night with the Minister of Foreign Affairs regarding the future plans of the Mediation Commis-

<sup>87</sup> Ricardo Castro Beeche, Costa Rican Minister.

<sup>88</sup> See pp. 1 ff.

sion. The results were satisfactory. He gave no indication of a desire that Costa Rica withdraw from the mediation, on the contrary he assured me of his own earnest desire and the determination of his Government to continue until the task was successfully completed. He stated that he had conferred with President Cortes just before meeting me and that he was voicing the firm determination of the President that the efforts to reach a settlement continue to receive full cooperation and support from the Costa Rican Government.

I urged the desirability of making the proposed visits to Tegucigalpa and Managua during the present month of November. He declared that it would be absolutely impossible for him and also he thought it quite unlikely that Dr. Rodriguez could arrive early enough to allow time for these visits before his departure for Lima. He expressed a willingness and desire to take up the work of the Commission as soon after his return as possible and thought that we might tentatively agree upon the last of January. It was then decided subject to Dr. Rodriguez' approval that a note be sent to the disputant Governments requesting an aerial reconnaissance survey in accordance with the plan proposed by the American Guides [*Geographical*] Society, this work to proceed if possible during the month of December or as soon as practicable in order that the Commission might be in possession of authoritative geographic data now lacking of a zone inclusive of the area in dispute. It was also agreed that both disputant Governments should be asked on or before December 10th to extend the period during which they have agreed not to purchase war materials.

CORRIGAN

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715.1715/1364: Telegram

*The Assistant to the Special Representative of the President  
(Ocheltree) to the Secretary of State*

SAN JOSÉ, November 24, 1938—10 a. m.

[Received 1:55 p. m.]

96. Referring to Dr. Corrigan's telegram No. 95, November 6, 1 p. m., Dr. Rodriguez has wired his personal acceptance of the proposal for an aerial survey of the region of the Segovia River. The President of the Commission before departing for Lima is sending notes to the Governments of Honduras and Nicaragua proposing the survey and further extension of article No. III of the pact of December 10, 1937.

I am leaving for Panama today in accordance with the Department's telegraphic instruction No. 45, October 26, 7 p. m.<sup>59</sup>

OCHELTREE

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<sup>59</sup> Not printed.



715.1715/1371 : Telegram

*The Assistant to the Special Representative of the President  
(Ocheltree) to the Secretary of State*

SAN JOSÉ, December 7, 1938— 10 a. m.

[Received 1 : 12 p. m.]

97. Referring to my telegram No. 96, November 24, 10 a. m. the Nicaraguan Government has notified the Secretariat of the Mediation Commission of its acceptance of the proposal for an aerial survey of the region of the Segovia River.

OCHELTREE

ARGENTINA  
PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT  
BETWEEN THE UNITED STATES AND ARGENTINA<sup>1</sup>

611.3531/580

*Memorandum of Conversation, by the Chief of the Division of the  
American Republics (Duggan)*

WASHINGTON, January 8, 1938.

The Argentine Ambassador<sup>2</sup> informed me by telephone this morning that there was some misunderstanding in the Ministry of Foreign Affairs with regard to the first paragraph of the draft telegram prepared at the conference on January 4 between Ambassador Espil and Mr. Sayre.<sup>3</sup> The Foreign Office apparently thought that what the Department desired was the abolition of the free rate. Señor Irigoyen<sup>4</sup> telephoned the Ambassador from Buenos Aires on Friday, January 7, and requested the Ambassador to send at once a cable explaining that the Department's interest lay in the surcharge. The Ambassador said he sent off a telegram yesterday noon, which he thought would clarify the situation. He told me that he would endeavor to talk with Irigoyen on the telephone on Monday morning, January 10.

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611.3531/574: Telegram

*The Consul at Buenos Aires (Ravndal) to the Secretary of State*

BUENOS AIRES, January 10, 1938—10 p. m.  
[Received January 11—12:45 a. m.]

I have just been informed by a member of the Argentine Inter-Ministerial Committee, which is studying the proposals of the United States Government with respect to a trade agreement, that this committee has recommended to the Finance Minister, for the decision of the Cabinet, that the Argentine Government inform the United States

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<sup>1</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 213-234.

<sup>2</sup> Felipe A. Espil.

<sup>3</sup> Francis B. Sayre, Assistant Secretary of State; for memorandum of the conversation on January 4, 1938, see *Foreign Relations*, 1937, vol. v, p. 232.

<sup>4</sup> Alonso Irigoyen, Financial Attaché of the Argentine Embassy in Washington.

Government that it will, coincident with the formal announcement by the Government of the United States of trade agreement negotiations with Argentina, (1) grant prior permits for official exchange up to the average annual, total of dollar exchange created by Argentina's exports to the United States over a representative period, less a reasonable amount for debt service, and (2) permit the balance of Argentina's imports from the United States to enter Argentina through the free market without payment of the 20% surcharge.

The Argentine committee considers that the removal of the surcharge upon United States merchandise entering Argentina through the free market would meet the charge of discrimination against the United States.

It was added that with the removal of the surcharge, the Argentine Government would probably cease to support the free market by feeding foreign exchange to it; so if imports through free market should produce an excessive demand for foreign exchange, the peso might depreciate to a point where the spread between the official exchange rate and the free market rate would amount to 20% or more.

The extent to which American trade would be affected adversely by such a spread in exchange rates would of course depend upon the excess of United States sales to Argentina over its purchases from Argentina. This, in the opinion of the Argentine committee, would not constitute discrimination against the United States but merely the practical effect of bilateralism.

RAVNDAL

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611.3531/581

*The Ambassador in Argentina (Weddell) to the Secretary of State*

No. 1869

BUENOS AIRES, January 11, 1938.

SIR: I have the honor to invite the Department's attention to my strictly confidential despatch No. 1851 of December 24, 1937,<sup>5</sup> on the second page of which I reported the visits to the Embassy of Mr. Alonso Irigoyen, the Financial Attaché of the Argentine Embassy in Washington, and in that connection to enclose a memorandum of a conversation between Mr. Irigoyen and the First Secretary of this Embassy.

Respectfully yours,

For the Ambassador:

ORME WILSON

*First Secretary of Embassy*

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<sup>5</sup> *Foreign Relations*, 1937, vol. v, p. 229.

[Enclosure]

*Memorandum of Conversation, by the First Secretary of Embassy in Argentina (Wilson)*

Mr. Irigoyen said that the Inter-Ministerial Commission, formed by the Argentine Government to consider the possibilities of negotiating a trade agreement with the United States, was giving unremitting attention to fundamental matters relating to this subject adding, in answer to an inquiry, that these fundamental matters were in effect connected with the question of exchange. He appeared to intimate in this connection that the Commission was weighing the problem as to whether widespread concessions in exchange could be offset by benefits to be derived from a trade agreement, stating at this point that the exchange question was an extremely difficult one to solve.

Mr. Irigoyen went on to say that the approaching change of administration in Argentina is tending to delay somewhat the activities of the Commission as some of its members realize that their term of office will terminate at the end of the Justo administration and that there was a consequent tendency to postpone matters. In answer to a question, however, as to whether Dr. Ortiz was not taking a lively interest in the possibility of concluding a trade agreement, Mr. Irigoyen answered in the affirmative and added that the President-elect was keeping in touch with the discussions of the Commission. Mr. Wilson pointed out that the present moment seemed favorable to Argentina in so far as negotiations for a trade agreement were concerned, owing to the fact that conversations on the same subject were about to commence between representatives of the British and American Governments. He seemed to realize this.

The Commission is compiling, according to Mr. Irigoyen, a formidable list of demands for tariff concessions from the United States which he will take with him when he leaves Buenos Aires by airplane on Tuesday next, January 18.

O[RME] W[ILSON]

[BUENOS AIRES,] January 10, 1938.

611.3531/586: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, January 27, 1938—3 p. m.

[Received 4:43 p. m.]

6. From Ravndal. "Have just been informed unofficially and in the strictest of confidence by Louro<sup>6</sup> that President-elect Ortiz and

<sup>6</sup> Alfredo Louro, Chief of the Argentine Exchange Control Board.

Minister of Finance Acevedo have accepted the proposal with regard to elimination of discrimination against the United States in exchange matters prepared by Louro with the assistance of Prebisch.<sup>7</sup> Ortiz is now consulting Carcano<sup>8</sup> with respect to agricultural concessions to be arranged probably by trade agreement negotiations and Carcano is being assisted in this matter by Louro. It is expected by the Argentine Inter-Ministerial Committee that the exchange proposal will very shortly be made to the Department and that the Department will make the preliminary announcement within a few days. Irigoyen expects to leave for Washington Saturday and Louro within 10 or 15 days.

It is understood that the exchange proposal accepted by Ortiz is along the lines discussed in my strictly confidential report entitled 'Bilateralism in Argentina's Exchange Proposals', sent air mail January 25.<sup>9</sup> [Ravndal.]”

WEDDELL

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611.3531/598

*Memorandum of Conversation, by the Chief of the Division of the American Republics (Duggan)*

[WASHINGTON,] January 28, 1938.

In connection with another matter the Argentine Ambassador mentioned to me over the telephone this morning that he had talked by long distance telephone with Mr. Irigoyen, the Embassy's Financial Attaché, who was now in Buenos Aires. Mr. Irigoyen stated that all of the necessary authorities had now given their clearance to the proposition presented by the Department. Dr. Espil stated that he expected to receive instructions either today or tomorrow to inform the Department of his Government's willingness to proceed on the basis outlined.

The Ambassador stated that press news despatches out of Washington had caused some disquiet to his Government. The Ambassador stated that he desired to impress as strongly as he could upon this Government the necessity of maintaining in the strictest confidence the information that Argentina will remove the surcharge at the time of formal announcement. He said that knowledge of this intention by speculators would result in all sorts of exchange operations, which his Government wants to avoid. I assured the Ambassador that every precaution would be taken to keep strictly confidential the intentions of his Government in this regard.

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<sup>7</sup> Raul Prebisch, General Manager, Central Bank of Argentina.

<sup>8</sup> Miguel Angel Carcano, Minister of Agriculture.

<sup>9</sup> Not printed.

The Ambassador stated that his Government hoped that the preliminary announcement might be made just as soon as notification is made to this Government of Argentina's acceptance of the proposal presented. I told the Ambassador that I would bring the desire of his Government in this regard at once to the attention of Mr. Sayre.

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611.3531/579

*The Department of State to the Argentine Embassy*

MEMORANDUM

1. The Government of the United States is gratified to receive the assurance contained in the Argentine Government's reply of December 30, 1937,<sup>10</sup> to the Memorandum of the Department of State dated November 22, 1937,<sup>11</sup> and in the Argentine Government's communication of January 28, 1938,<sup>12</sup> sent in reply to a telegram sent by the Argentine Ambassador to his Government after consultation with officials of the Department of State on January 4, 1938, that the Argentine Government from the date of the formal public notice of intention to negotiate a trade agreement, will not apply any charge or surtax on purchases of exchange for the payment of products imported into Argentina from the United States.

2. The Government of the United States, in the second paragraph of its Memorandum of November 22, 1937, requested assurances regarding the allotment of official exchange on an unconditional most-favored-nation basis. It is noted, however, that the Argentine Government in its replies under reference gives no assurances in this regard. Nevertheless, in view of its earnest desire to proceed with the negotiations at the earliest possible date, the Government of the United States will not at this time insist for the period up to the conclusion of the trade agreement upon full acceptance of its request on this point.

3. The Government of the United States is prepared to issue its preliminary public notice of contemplated trade agreement negotiations on the basis of the assurances referred to in paragraph 1 above and on the understanding that pending the conclusion of a trade agreement the treatment of American commerce, in respect of the allotment of official exchange, will be no less favorable than that which is now enjoyed, subject, of course, to the understanding, as stipulated in the third paragraph of the Memorandum of November 22, 1937, "that the Argentine Government is prepared to negotiate the contemplated

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<sup>10</sup> *Foreign Relations*, 1937, vol. v, p. 231.

<sup>11</sup> *Ibid.*, p. 225.

<sup>12</sup> See memorandum by the Chief of the Division of the American Republics, *supra*.

agreement upon the basis of the unconditional most-favored-nation principle applied to all forms of trade and payments control".

4. The guarantee of full unconditional most-favored-nation treatment with respect to all form of trade and payments control is a basic principle of American commercial policy. It is, therefore, essential that any trade agreement concluded by the United States contain suitable provisions embodying this guarantee. It is of prime importance that there be no misunderstanding in regard to it such as would result in a failure of the negotiations after public announcement has been made.

5. The paragraph above quoted means with reference to exchange control that if either Government establishes or maintains directly or indirectly any form of control of the means of international payment, it shall not use such control in any manner, direct or indirect, to regulate or in any manner to influence the source of its importations to the detriment of the trade of the other country. It means further that enjoyment of the complete freedom from discrimination thus envisaged shall not be subject to any condition or qualification whatsoever, such, for example, as the requirement by either country that the treatment accorded shall in any way depend upon the amount of its exports to the other country or upon the relation between exports and imports in its trade with that country. Under the system and methods of exchange control at present existing in the Argentine, a practical application of this principle would mean that when the trade agreement goes into effect, so long as exchange at the official rate is provided for all merchandise imports from any third country, exchange would be made available at the official rate for all merchandise imports from the United States. As stated in this Government's Memorandum of November 22, 1937, it would be impossible for this Government to conclude any trade agreement with the Argentine Government unless it contained guarantees fully effectuating the purposes above set forth.

WASHINGTON, February 1, 1938.

[Enclosure]

*Suggested Form of Reply by the Argentine Embassy to the Memorandum of the Department of State of February 1, 1938*<sup>13</sup>

The Argentine Ambassador has the honor to acknowledge the receipt of the Memorandum of the Department of State dated February 1, 1938, which reads as follows:

(Insert text of memorandum)

<sup>13</sup> In a note of February 3, the Argentine Embassy acknowledged the receipt of the Department's Memorandum of February 1, in the form suggested in this enclosure (611.3531/590½).

The Argentine Ambassador has the honor to state that his Government clearly understands the position of the United States as set forth in its Memoranda of November 22, 1937, and February 1, 1938, and declares its readiness to go forward with the proposed negotiations.

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611.3531/589 : Telegram

*The Consul at Buenos Aires (Ravndal) to the Secretary of State*

BUENOS AIRES, February 3, 1938—10 p. m.

[Received February 4—6:30 a. m.]

The Argentine Government's reaction to the Department's communication as forwarded by Espil to the effect that the United States requires before the preliminary announcement assurance that under the trade agreement official exchange will be granted for all United States exports irrespective of the status of Argentina's trade balance with the United States is, according to Louro, one of complete surprise. Argentina's understanding of the United States requirement has been the removal of discrimination and the granting of most favored nation treatment beginning with and continuing after the formal announcement. This Argentina is prepared to do and it may well be that in practice all United States merchandise will be admitted at the official rate. For example, it has been calculated that had there been a trade agreement in 1937 all imports from the United States in that year would have received official exchange.

Louro says Argentina cannot and will not agree to the undertaking now allegedly required by the United States Government. The reasons are: First, such an undertaking would mean giving the United States more than most-favored-nation treatment as interpreted by Argentina in its treaties. Second, the trade agreement countries, particularly Great Britain, would have just cause for serious protest. The British, for example, would protest buying Argentine meat at the expense of the Dominions to enable Argentina to buy American textiles at the expense of British industry. Third, it would probably entail in consequence having a shorter official exchange for remittances on British investments and that would constitute too heavy a strain on the official market. And fourth, it would mean the virtual abolition of the free market, Argentina's safety valve.

I was most emphatically informed that in no case whatsoever does an Argentine trade agreement assure a foreign country complete official exchange coverage irrespective of the balance of trade with that country.

In Louro's opinion, if the United States should persist in requiring complete official exchange coverage on a multilateral basis, Argentina



would be faced with an impossible situation, negotiations probably would not materialize and the United States might find itself placed in a worse position than in the past 2 years, when Argentina made gestures to stimulate the initiation of negotiations.

It was added not for attribution that if the negotiations with the United States should fail the United States probably would have to be included in a plan now being formulated for Japan requiring importers to obtain a permit before any merchandise could be cleared through the official or free market, the purpose being to achieve a balance between exports and imports, as in the case of Germany, primarily because of the prospects of a much smaller influx of exchange due to lesser exports and the fact that there is now a much greater demand for than supply of exchange in the free market.

Louro suspects that Espil did not at least in the beginning clearly understand what the United States exchange requirements are, for according to Espil's despatches it would appear that the United States Government is changing its requirements and this Louro finds is creating a most unfortunate reaction among responsible officials of the Argentine Government.

RAVNDAL

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611.3531/591

*The Argentine Embassy to the Department of State*<sup>14</sup>

[Translation]

MEMORANDUM

The Argentine Embassy transmitted to its Government the text of the Department of State's memorandum of February 1 and has just received the following reply, which it is instructed to bring urgently to the attention of the Department of State:

"In principle there would be no objection to accepting that the negotiation of the treaty shall be on the basis of unconditional and unlimited most-favored-nation treatment with respect to any form of control of exchange and international payments.

"The scope of this clause can be no other for the Argentine Government than that of granting exchange for the importation of American products on the same conditions as the other countries with which agreements have been made, namely up to the equivalent of the F. O. B. value of our exports to the United States after deduction of a reasonable annual sum.

"As to the United States goods which could not be imported with advance permits owing to the insufficiency of foreign exchange pro-

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<sup>14</sup> Handed to Under Secretary of State Welles by Ambassador Espil on February 5.

duced by our exports to the United States, it has already been specified in the previous memorandum that they would be liquidated at a rate of exchange which would in no case be higher by burdens, charges or surcharges than that which is applied in the same market to any other country.

"Any other interpretation such as that which seems to appear from the communication of the United States State Department is absolutely unacceptable for the following reasons:

"1. It would not be possible to adopt it within the régime of the agreements made without establishing a situation of manifest inequality for the countries with which agreements have been made.

"2. The Argentine would lack the necessary foreign exchange inasmuch as the larger part of the foreign exchange originating from its exports to other countries outside the United States is assigned to the fulfillment of the various agreements made and to the acquisition of indispensable articles such as jute. This impossibility would be so much the greater in the present state of the balance of payments.

"The new demand which seems to appear from the communication of the United States State Department has not failed to cause profound surprise and disappointment after there had been made, in view of the realization of an agreement, concessions so important as the reduction of the surcharge which has led to its elimination."

[Annex—Translation]

The negotiation of the treaty shall be on the basis of unconditional and unlimited most-favored-nation treatment with respect to every form of control of interchange and international payments.

The Government of Argentina states that it will abolish the system of exchange control as soon as circumstances shall permit. As long as the present period of emergency shall last, the Argentine Government shall manage the system of control of exchange so that it shall include no restrictions which place United States products under disadvantageous conditions with respect to products from other countries which have signed commercial conventions with Argentina.

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611.3531/597

*The Ambassador in Argentina (Weddell) to the Secretary of State*

No. 1914

BUENOS AIRES, February 8, 1938.

[Received February 15.]

SIR: I have the honor to refer to the Department's telegram No. 11 of February 5, 3 p. m.<sup>15</sup> and in connection therewith to report that

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<sup>15</sup> Not printed.

during a conversation yesterday between Señor Torriani, Chief of the Economic Division of the Foreign Office, and the First Secretary of the Embassy the former took occasion to express in most emphatic terms what he indicated to be the Argentine Government's point of view on the subject of granting official exchange to American imports. He declared that if a trade agreement were negotiated the Argentine Government would go no further with the United States than it had with other countries, namely, to grant official exchange to American imports only to the extent of the value of Argentine exports to the United States, permitting other American imports to enter Argentina through the free market. This, in his opinion, would constitute most-favored-nation treatment for the United States. It was pointed out then that the American Government's adherence to the multilateral theory of trade was well known and that the Secretary of State had often pointed out his preference for this system instead of a bilateral balancing of exports and imports. This, however, did not appear to alter Sr. Torriani's views as he indicated that the Argentine Government could not change its position in view of the character of the treaties negotiated with other countries, such as Great Britain.

Mr. Wilson then inquired whether the Argentine Government did not have a very large fund of exchange which had been accumulating for some time and which might possibly be used in order to grant more liberal conditions to American imports. He replied that he did not know how large this fund was but added that it had been liberally used to support the peso in the free market, which had been subject to attack from Europe ever since the *coup d'état* of President Vargas in Brazil which weakened the confidence of some Europeans in the stability of the peso. In answer to a remark that Argentine exports to the United States were subject to no official limitation or discrimination in the matter of exchange he declared that the United States being a rich country could afford to do this, but that Argentina, being comparatively poor, was not in a position to show such generosity.

Respectfully yours,

For the Ambassador  
ORME WILSON  
*First Secretary of Embassy*

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611.3531/604a

*The Secretary of State to the Argentine Ambassador (Espil)*

WASHINGTON, February 12, 1938.

MY DEAR MR. AMBASSADOR: The reason this Government has brought the question of exchange treatment to the forefront at this stage of discussion regarding a possible trade agreement between

the Argentine and American Governments, is solely, as I believe you recognize, the desire to avoid unfruitful disturbance of trade both in this country and in Argentina if preliminary interchange of the type that had been going on reveals the likelihood that this question of exchange would prove an unsurmountable obstacle to agreement. Therefore my Government has been striving to formulate the type of exchange arrangements which it regards as an essential element in any trade agreement that might be arrived at. I attach herewith a formulation of such arrangements; this formulation consists of a single draft article for inclusion in a trade agreement and a draft letter of explanation and interpretation of the article.

If an agreement can be reached that trade agreement discussions will proceed on the definite understanding that if and as any trade agreement is concluded these shall be the exchange provisions, this Government will be very pleased to initiate negotiations.

More precisely if the Argentine Government can state its agreement before February 25, this Government is prepared to make preliminary announcement within three days thereafter.

I shall ask the American Ambassador in Buenos Aires to supplement the discussions which have taken place with a full presentation of the considerations shaping our views. I greatly hope that preliminary understanding can be reached on this point so that trade agreement negotiations can be promptly initiated.

Sincerely yours,

CORDELL HULL

[Enclosure 1]

*Draft of an Article Relating to Exchange Arrangements for Inclusion in Trade Agreement*

In the event that the Government of the United States of America or the Government of the Republic of Argentina establishes or maintains any form of control of international payments, it shall, in the administration of such control, accord to the commerce of the other country the most complete application of the unconditional most-favored-nation principle.

[Enclosure 2]

*Draft of Letter of Explanation and Interpretation of Article Relating to Exchange*

MR. SECRETARY OF STATE: Animated with the purpose of making Article \_\_\_ of the trade agreement signed today between the Republic of Argentina and the United States of America perfectly clear, my Government has authorized me to advise Your Excellency that so

long as the Argentine Government maintains control over foreign exchange, it will so administer that control under the provisions of Article — that the exports of the United States will suffer no competitive handicap in exchange matters, as compared with the like products of other countries. This undertaking will be carried out as follows:

(1) There shall be prepared jointly by the American Embassy in Buenos Aires and the Argentine Government a list including all articles in respect to which the Argentine Government intends to make official exchange available for payment for imports from any country. This list shall include all articles in respect of which any official exchange was made available to any country during the twelve calendar months next preceding the date of the conclusion of the trade agreement. This list shall be revised bi-monthly, so as to show the products as to which official exchange was given to any country during the twelve months immediately preceding. The American Government shall be free to publish this list for the convenience of its exporters.

(2) The Argentine Government will make official exchange available promptly, unconditionally, and without restriction in respect of importations of all articles the growth, produce or manufacture of the United States of America enumerated in such list.

(3) In respect of importations of any article the growth, produce, or manufacture of the United States of America not enumerated in the aforementioned list, the Argentine Government will place no restriction on the transfer of payment through the free market, and no tax which is other or higher than that made to apply in respect of payments for importations of the like article the growth, produce, or manufacture of any third country.

(4) In addition to the above, my Government undertakes that in respect of the transfer of all non-commercial payments, the Argentine Government will continue to accord to the United States of America treatment no less favorable than that accorded to any third country.

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611.3531/593a : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, February 12, 1938—7 p. m.

18. The discussions with Espil and Irigoyen referred to in the Department's telegram No. 11, February 5, 3 p. m.,<sup>16</sup> have continued throughout the past week in an effort to arrive at some mutually satisfactory understanding with respect to exchange treatment on the basis of which it would be possible to go ahead with trade agreement negotiations.

These preliminary discussions with the Argentine Government have been deemed necessary here because we did not wish to make public announcement of intention to negotiate with the Argentine Govern-

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<sup>16</sup> Not printed.

ment unless it seemed clear that there was no unsurmountable obstacle in the way of a successful conclusion of an agreement. It seemed clear that it was wise to avoid unnecessary disturbance of trade both in Argentina and in this country such as might naturally arise during the period of negotiation, if the odds were against the successful conclusion of an agreement.

The one matter on which it seemed likely that agreement would be most difficult was that of the exchange treatment to be accorded to American commerce. This is because the present system of Argentine exchange control and most of its commercial treaties are based on the principle of bilateral balance, and official exchange allocations appear to be roughly adjusted to the volume of Argentine exports to particular countries. On the other hand the whole American commercial policy, which is part of a broad program having both trade expansion and the promotion of peace as its goal, is based on the use of the unconditional most-favored-nation principle, unrestricted by the terms of bilateral interchange. Accordingly our purpose has been in these preliminary discussions to make it completely clear to the Argentine Government that in any trade negotiations we shall be compelled to request of them unconditional most-favored-nation treatment in exchange matters. Our thought has been that if the Argentine Government fully understood this to be our position from which we could not recede under any circumstances negotiations could be announced and promptly carried forward and presumably concluded if and as both countries believed the terms to be of mutual benefit. The Argentine Government, of course, by full recognition of our position in this matter, would not be committing itself now to sign a trade agreement with us.

In the discussions which have been taking place, the Argentine representatives have emphasized the need for some measure of flexibility or, as they have called it "management", in their administration of the exchange control. On the other hand, it is the opinion of this Government that the treatment to be accorded American commerce as regards the allocation of exchange must be a matter of explicit agreement; otherwise our rights under any agreement that would be signed would be necessarily discretionary within the authority of the Argentine exchange management. It has not been possible up to the present to bridge the difference of attitude on this point.

Therefore, this morning it was decided to put our position directly before the Argentine Government by means of a communication addressed to the Ambassador, for transmission to his Government. The letter addressed to the Ambassador is as follows:

[Here follows text of letter of February 12 and enclosures, printed on page 281.]

The idea of having within the trade agreement itself only a very brief paragraph of general principle, and of having the more precise interpretation of that principle embodied in an accompanying note was one that suggested itself during the discussions that have taken place, as possibly an easier form for the Argentine Government to consider—with reference to its other commercial treaty obligations—than would be the inclusion of the whole within the text of the trade agreement proper. However, this question of form is not essential provided substance remains the same.

As you know, we have heretofore taken the position that non-discriminatory treatment with respect to exchange would require that so long as Argentina makes official exchange available for all imports from any country it would also be required to make official exchange available for all imports from the United States. This the Argentine Government has stated categorically it cannot undertake to grant. In the discussions of the past week an effort has been made to seek some common ground satisfactory to both Governments. As a result of these discussions there has now been worked out the foregoing draft which would define non-discriminatory treatment in terms of individual commodities rather than of trade as a whole. It is sincerely hoped that this will facilitate agreement with the Argentine Government.

The Argentine representatives here have tried to induce us to modify the formulation of our requirements to terms of general principle in place of the precision of definition and method in the draft. This, however, appears to us unsatisfactory because every effort at definition in general terms that has been made leaves a large margin of vagueness almost certain to give rise to future controversy, and almost naturally subject to interpretation along the lines of the bilateral attitude which Argentina has maintained. We therefore deem the clear definition contained in this document as essential.

In handling these communications to Espil this morning, he was informed that they would likewise be communicated to you and that you would be asked to make a supplementary presentation of the matter to the Argentine Government. In view of the importance of the matter and the desirability of reaching prompt decision on this question, will you kindly seek an appointment with the President-elect and present the foregoing to him. You may say that it would naturally give this Government the greatest gratification if the announcement of contemplated negotiations could be made at the outset of his new administration.

In adhering to its view that in any and all trade agreements the American Government must seek for its commerce protection against discrimination, this Government believes it is standing only on

grounds of reason. Furthermore its policy is calculated to permit trade to develop without the restrictive effect of bilateral measures. The acceptance by other countries of this American principle of commercial policy should in the long run greatly benefit Argentina which trades largely with the whole world. For example, if the United States and the United Kingdom reach an accord of the substantial type under consideration, it is to be anticipated that in both markets new opportunities would be created for Argentine goods as a result of following a line of policy without bilateral restriction or reference.

You might find one other consideration useful in your presentation of the matter: the inclusion in the trade agreement of suitable provisions enabling either country to terminate the agreement on short notice would furnish protection to both against unexpected developments in the exchange situation.

HULL

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611.3531/600 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, February 17, 1938—10 a. m.

[Received 11:55 a. m.]

27. Department's No. 18, February 12, 7 p. m. Pressure of official engagements prevented the President-elect from receiving me until late yesterday afternoon at which time I went over with him the matters embraced in the Department's instruction.

He said that he was familiar with the Department's communications to Espil to which I referred although these had only come to his notice yesterday; he added that then recognizing the difficulty and importance of the question he had instructed Louro, head of the Exchange Bureau, to proceed to Washington at once and that the latter was leaving by plane on the 19th. He said that Louro possessed a technical knowledge greater than his other representatives in Washington and would be able to clarify the Argentine position in exchange matters and promote an understanding and that he looked for positive results within 2 days of his arrival in our capital. I inquired here if Louro possessed full powers to act or if he would have to refer matters back to Buenos Aires with consequent further loss of time. A direct reply to this was evaded but the President-elect again stressed Louro's capacities intimating in strongest terms that whatever Espil and Louro recommended would be ratified here, and declaring that he wished to emphasize his optimism as to the prospects of early arrival at an agreement.



I stressed in my remarks the feasibility of including in any agreement clauses providing for denunciation thereof, thus safeguarding vital interests, and the importance of the time element; this latter he said as a practical politician he quite appreciated. In response to an observation that what we were seeking seemed to be badly [*badly?*] and simply most-favored-nation treatment, I replied that certainly in any trade negotiations we will be compelled to ask such treatment in exchange matters, as this was part of a general commercial policy which embraced a broad program.

WEDDELL

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611.3531/601 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, February 18, 1938—7 p. m.

[Received February 18—5:40 p. m.]

30. My 27, February 17, 10 a. m. Louro informed Ravndal last night that he is being sent to Washington by Ortiz with full powers to settle trade agreement question and that he is authorized to make any concession he deems appropriate except the granting of more exchange than that created by United States purchases of Argentine products. If the United States insists on receiving more, Louro is to advise the Department that a trade agreement is impossible.

WEDDELL

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611.3531/619

*The Department of State to the Argentine Embassy*<sup>17</sup>

MEMORANDUM

The Government of the United States has given careful consideration to a proposal, which was evolved in informal conversations between representatives of the Governments of the United States and Argentina, with respect to the allocation of official exchange to products of the United States under a possible trade agreement. The Government of the United States understands this proposal to be as follows: The Government of Argentina would undertake, under a trade agreement, to make available sufficient official exchange to pay for the importation, in any calendar year, of all imports of products from the United States contained in a list to be established. Further-

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<sup>17</sup> Handed to the Argentine Ambassador, March 25.

more, the Argentine Government would undertake to allocate to additional products of the United States any official exchange, over the amount needed for imports of the listed products, that might become available from any source, such exchange to be allocated particularly for imports of those products with respect to which the difference in the rate of exchange constituted an important consideration. A joint committee could bring to the attention of the Argentine Government instances in which a difference in the rate of exchange seriously handicapped imports from the United States as compared with like imports from other countries.

While the Government of the United States recognizes and appreciates the spirit underlying the foregoing proposal, the conclusion has been reached that it would not be possible to accept it. An important objection to the proposal in question is that it does not make adequate provision for products of the United States which are not included in the proposed list. Under this proposal it might well happen that a large proportion of the number of products imported into Argentina from the United States would receive no official exchange whatever, while products included in the list would receive complete official exchange coverage. In other words, the difference in treatment which would be accorded products included in the list as compared with products not included therein is so great that United States exporters of products in the latter category would feel that they had serious cause for complaint.

In view of the importance which the Government of the United States attaches to the negotiation of a mutually profitable trade agreement between the two countries, various alternative solutions of the problem have been considered with a view to finding one which will meet to the fullest possible extent the requirements of both countries. A formula which may offer a possible solution and which the Government of the United States desires to present to the Government of Argentina for consideration is as follows:

This proposal is that the trade agreement embody provisions whereby Argentina would undertake to make available for imports of merchandise from the United States a proportion of the total official exchange available in any calendar year for merchandise imports into Argentina from all sources, which shall not be less than the proportion of Argentina's total merchandise imports supplied by the United States in a previous representative period. The attached draft of provisions for possible inclusion in the trade agreement will indicate more clearly the nature of this proposal.

If the Argentine Government thinks a solution might be reached following this line, the Government of the United States will be glad immediately to discuss the question of what shall be deemed to con-

stitute the representative period on which the proportion of the available official exchange to be allotted to imports from the United States would depend. This base period would be defined in the agreement. Also certain questions pertaining to the practical application of this plan, particularly the question of the proper method of distributing the exchange allotted to the United States among the various products of the United States will require consideration.

It should be noted that the proposal above presented for consideration has the advantage from the standpoint of the Argentine Government of being less rigid than the formula contained in the first mentioned proposal. It is assumed that the products to be included in the list contemplated by the latter proposal would comprise a substantial portion of United States exports to Argentina. Therefore, whereas that proposal would assure official exchange for all listed products of the United States regardless of the amount of such exchange required therefor and irrespective of the total amount of official exchange that might be available to the Argentine Government, the proportional principle suggested by the United States maintains a fixed ratio between the total amount of the official exchange which might be available in any calendar year for merchandise imports from all sources and the amount allocated to merchandise imports from the United States. In other words, requirements of official exchange for imports from the United States would be automatically adjusted to the total amount of official exchange which Argentina has available.

WASHINGTON, March 24, 1938.

[Enclosure]

*Draft of Provisions Regarding Exchange for Possible Inclusion in Trade Agreement*

1. In the event that the Government of the United States of America or the Government of the Republic of Argentina establishes or maintains, directly or indirectly, any form of control of the means of international payment, it shall, in the administration of such control, accord to the commerce of the other country fair and equitable treatment.

2. To that end, the Government of the Republic of Argentina undertakes that, so long as it maintains, directly or indirectly, any form of control of the means of international payment, there will be made available for the payment of merchandise imported into Argentina from the United States, a proportion of the total official exchange available in any calendar year for payments in respect of merchandise imports which shall not be less than the proportion of Argentina's

total merchandise imports supplied by the United States in a previous representative period. The term "official exchange" means exchange sold, or the rate for which is fixed, by the Government of the Republic of Argentina.

3. In the allotment of the official exchange provided for in paragraph 2 above for importations from the United States, the Government of the Republic of Argentina will take steps to insure that such exchange shall be made available in such a manner as to facilitate the full utilization of the total amount made available for importations from the United States.

4. Neither the Government of the United States nor the Government of the Republic of Argentina shall fix a less favorable rate of exchange or impose any other or higher tax or charge in connection with remittances of any kind to the other country of exchange sold, or the rate for which is fixed, by the Government, than is applicable to like remittances to any third country. With respect to exchange other than that sold, or the rate for which is fixed, by the Government, neither Government shall impose any tax or charge in connection with remittances of any kind to the other country.

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611.3531/634: Telegram

*The Consul at Buenos Aires (Ravndal) to the Secretary of State*

BUENOS AIRES, May 24, 1938—6 p. m.

[Received 7:40 p. m.]

Referring to my despatch No. 330 of May 20<sup>18</sup> and my report to the Embassy of the same date regarding the restriction in the granting of official dollar exchange for merchandise imports.

It has been learned from a usually reliable source that the Argentine Government is contemplating shortly placing on a quota basis imports from all foreign countries, the quotas to be measured by the extent of the foreign countries' purchases of Argentine products.

The economic advisers of the Central Bank insisted in an unofficial conversation with me today that, not counting the redemption of the dollar debt, Argentina has already granted the United States more official exchange than has been created by United States purchases since the beginning of exchange control and that it will be necessary drastically to restrict the granting of official dollar exchange until existing trade conditions improve. The Consulate General is preparing data which it is thought will refute this contention.

RAVNDAL

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<sup>18</sup> Not printed.

611.3581/637

*The Argentine Minister for Finance (Grosso) to the Argentine  
Minister for Foreign Affairs (Cantilo)*<sup>19</sup>

[Translation]

No. 435

BUENOS AIRES, May 28, 1938.

MR. MINISTER: With reference to the note dated March 26 last, in which your Department was good enough to transcribe the telegram of March 24th of the Ambassador at Washington, I have to state that this Ministry does not consider it possible to accept the formula contained in said telegram, for the same reasons of which I informed Your Excellency in Note No. 33, in connection with a communication of the Department of State of the United States, duly transmitted by the Ambassador in the United States.

It is the opinion of this Department that it is possible to find a satisfactory formula only within the concepts indicated in my above-mentioned note, i. e., negotiation of the treaty on the basis of the unconditional and unlimited most-favored-nation treatment with respect to any form of control of international exchanges and payments, with the understanding that the scope of this clause for the Argentine Government cannot be other than the following:

(1) Authorization of official exchange for the imports of North American products on the same conditions as with the other countries with which agreements have been concluded, i. e., up to the equivalent of the F. O. B. value of our exports to the United States after deduction of a reasonable annual sum;

(2) The assurance that goods which cannot be imported with previous permits will be liquidated at a rate of exchange which in no case will be higher, on account of charges, additional charges or surtaxes, to those applied in the open market to any other country.

This Department admits the possibility of undertaking to authorize all the permits previously mentioned for articles coming from North America, which would be indicated in a minimum list.

The decision as to the articles to be included in the said list would depend on the real advantages which the United States may present for the increase in purchases in our country.

It would likewise be advantageous to agree that if, in consequence of the authorization of official exchange for the articles included in the list, a surplus of foreign exchange in a given year should be authorized, the excess must be compensated for during the following year, official exchange to be deducted for the articles on the list, to the extent necessary to produce an equilibrium.

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<sup>19</sup> Copy transmitted to the Secretary of State by the Argentine Ambassador in letter of June 9, 1938.

On the whole, this Department believes that the principle of the said minimum list should be accepted by us only after guarantees are obtained that the United States will assure us advantages which justify such action.

Please accept [etc.]

P. GROPPA

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835.5151/906

*Memorandum of Conversations, by Mr. James C. Sappington, Jr., of the Division of Trade Agreements*

[WASHINGTON,] June 8 and 10, 1938.

Participants: Mr. Alfredo Louro, Chief of the Argentine Exchange Control Office  
 Mr. Hawkins<sup>20</sup>  
 Mr. Fowler<sup>21</sup>  
 Mr. Sappington

Mr. Louro came in on June 8, 1938, and advised that instructions had been received from his Government in reply to this Government's memorandum of March 25, 1938, in regard to the proportional exchange formula.\* He orally translated a note from the Argentine Ministry of Finance. The substance of this note as translated by Mr. Louro was as follows: The Argentine Government found the proportional formula unacceptable for inclusion in a trade agreement but would undertake to grant imports from the United States official exchange on the basis of that created by exports to the United States; exchange would be granted to cover imports of a list of articles to be established in the light of exports to the United States, taking into account trade-agreement concessions granted Argentine exports; however, should Argentina allot merchandise imports from the United States more official exchange in any year than was created by Argentine exports to the United States, a deduction in the amount allotted imports from the United States would be made in the following year. Mr. Louro said that this note would be transmitted formally to the Department.

Mr. Louro left for consideration a copy of a table he had prepared to illustrate the proportional exchange formula to his Government. In this table Mr. Louro had allocated to merchandise imports from the United States 19.14 percent (United States percentage of total Argentine merchandise imports during the period 1935-1937 on the basis

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<sup>20</sup> Harry C. Hawkins, Chief of the Division of Trade Agreements.

<sup>21</sup> William A. Fowler, Assistant Chief of the Division of Trade Agreements.

\* Mr. Louro had stated in a previous conversation with Mr. Hawkins, Mr. Muccio and Mr. Sappington that he was informed that such instructions were being transmitted. [Footnote in the original.]

of the Argentine Exchange Control Office figures) of total estimated available exchange for all merchandise imports into Argentina in 1938. He had then allotted this amount proportionally by products or groups of products by taking the average proportion of such products to total Argentine imports in the period 1935-1937. By this ingenious method Mr. Louro maintained that the Argentine Government would have to deprive "essentials" of needed official exchange in order to allot additional exchange to "non-essentials". In any case in which the resulting allotment to an American product was greater than that allotted to imports of a like product from the third country "most favored" in this respect, Mr. Louro had reduced the allotment to the United States product to an amount equal to that allotted the like product from such third country; as a result of this reduction the total percentage of official exchange allotted to American imports in accordance with Mr. Louro's figures was reduced from 19.14 percent to about 12 percent. This, Mr. Louro stated, was in accordance with the most-favored-nation principle.

Mr. Louro again came in on June 10, 1938, at which time the above-mentioned table was discussed. It was emphasized to Mr. Louro that it was not intended that the share of official exchange due merchandise imports from the United States must be proportionally allocated among individual products. It was pointed out in this regard that the draft accompanying the memorandum of March 25, 1938, went no further than to assure that the Argentine Government would take steps to insure the full utilization of the full amount of official exchange due United States exports to Argentina. In this connection, and with reference to Mr. Louro's application of what he claimed to be the most-favored-nation principle in product allocation of official exchange, it was again stated that the proportional formula contemplated that the full percentage of total official exchange available for merchandise imports due merchandise imports from the United States (on a representative period basis) should be made available for the latter without deduction.

Mr. Louro indicated that because of exchange requirements for imports from third countries, it would be impossible for Argentina to assure the United States the amount of exchange it would be entitled to under the proportional formula.

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611.3581/644a

*The Department of State to the Argentine Embassy*

MEMORANDUM

Recent unforeseen developments have made it possible for the Government of the United States to consider giving early public announce-

ment of intention to negotiate a trade agreement with the Government of Argentina with a view to completing negotiations and publishing the terms of the agreement not later than early September. In the event that the negotiations should not be completed and the agreement published by that time it would be necessary publicly to announce the unsuccessful termination of negotiations. To provide time for completing the procedure required by United States law, the announcement of intention to negotiate would have to be made not later than July 7, 1938. Since it is obviously undesirable that negotiations be publicly announced unless there is assurance that they can be brought to a successful conclusion, it is indispensable that substantial agreement be reached on the essential provisions of the agreement prior to public announcement, that is to say, before July 7.

With reference to the question of exchange allotments, the discussions which have taken place since last November have served to clarify the problems confronting both Governments. It will be recalled that the Government of the United States took the position, with respect to the exchange treatment of United States products imported into Argentina, that if all imports into Argentina from any third country were covered by official exchange, all imports from the United States should be covered by official exchange. Such a position, in the opinion of the Government of the United States, is in conformity with the unconditional most-favored-nation principle. Nevertheless, after further discussions, the Government of the United States reluctantly receded from its original position so far as to propose (on March 25, 1938) that there be allotted for imports from the United States a share of total official exchange available based upon the share of total Argentine imports supplied by the United States in a previous representative period.

Although there have been extended discussions of this compromise proposal, it appears that there has been some misunderstanding as to its exact nature and as to how it would work out in practice. It was never the intention, for example, to require that the formula be applied on a product-by-product basis. Rather, it was intended that, with reference to the position of the United States as a supplier of the Argentine market in some previous representative period, there be allotted a determined amount of official exchange for imports in general from the United States, leaving reasonable freedom to the Argentine Exchange Office authorities to allocate this amount between the various products imported from the United States.

The Government of the United States has reviewed the whole situation in the light of the Argentine Government's note of May 28, 1938 transmitted by the Argentine Ambassador on June 9, 1938, and recent



discussions with Mr. Louro. Although it is not possible to accept the proposal set forth in the note under reference, this Government has given careful consideration to the formula which it previously submitted with a view to clarifying it and presenting it in a form which it is hoped the Argentine Government will find it possible to accept.

How the proportional formula proposed by the United States would apply may be illustrated by taking 1924-1933 as the base period. The Government of the United States believes that it would be fully justified in considering this period as fairly representative of the position of the United States as a supplier of the Argentine market. Assuming that estimated official exchange available for imports during 1938 amounts to m\$*n* 1,122,000,000, the amount of official exchange allotted for imports from the United States during 1938 would amount to m\$*n* 233,937,000 (i. e., 20.85 percent of m\$*n* 1,122,000,000).

However, after full and sympathetic consideration of the exchange problem with which the Government of Argentina is faced, and motivated by a sincere desire to find a formula acceptable to the Government of Argentina, the Government of the United States is prepared to accept the three-year period 1932-1934 as the base period. During this period imports from the United States constituted 12.86 percent of total imports into Argentina, on the basis of "real-value" figures. Applying this percentage to estimated total official exchange for merchandise imports (m\$*n* 1,122,000,000) gives m\$*n* 144,289,000 as the amount of official exchange which (in the absence of any change in the estimated total of m\$*n* 1,122,000,000 during the year) would be allotted for imports from the United States during 1938.

In other words, on the basis of this Government's present proposal, the United States would receive about m\$*n* 90,000,000 less in 1938 than the amount which can be regarded as a fair and equitable allotment; and about m\$*n* 38,000,000 less than the amount of official exchange sold to pay for imports from the United States in 1937 (m\$*n* 182,000,000). This proposal represents the utmost extent to which this Government can go in its earnest effort to find a solution of this difficult problem.

The Government of the United States would expect to have the question of the base period reconsidered later on in the light of future favorable developments in the Argentine exchange situation.

In addition to agreement in regard to exchange treatment, it is necessary that agreement be reached before July 7 on the substance of the other general provisions and on the concessions to be granted by the United States and Argentina, respectively. Attached are <sup>22</sup>

(1) Copy of the standard general provisions which the Government of the United States desires to have included in its trade agreements;

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<sup>22</sup> None attached to file copy of this document.

(2) List A, specifying the proposed concessions to be granted to Argentina;\* the items in this list represent more than 80 percent of total United States imports from Argentina in 1936; and

(3) List B, specifying the proposed concessions to be granted to the United States; items marked with an asterisk are those to which the Government of the United States attaches particular importance; they represent approximately 50 percent of total Argentine imports from the United States in 1936.

It will be apparent that very prompt action is essential. The Government of the United States would appreciate having an indication of the attitude of the Government of Argentina in regard to these proposals at the earliest possible date, since the time for considering any points of difference between the positions of the two Governments is so limited.

WASHINGTON, June 13, 1938.

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611.3531/644a : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, June 25, 1938—1 p. m.

81. For your confidential information, a memorandum was handed the Argentine Ambassador on June 13, 1938, embodying the following:

In the event agreement is reached in regard to exchange treatment under a trade agreement (on the basis of the proportional formula, outlined in this Government's memorandum of March 24, 1938,<sup>23</sup> enclosed with the Department's instruction number 726 of April 5, 1938,<sup>24</sup> using the period 1932-1934, giving percentage of 12.86, as the base period for the purpose of the formula), and substantial agreement is reached on the substance of the other general provisions and on the concessions to be granted by both countries before July 7, this Government will issue not later than that date announcement to negotiate a trade agreement with Argentina; if the agreement should not be completed and published by early September, it would be necessary publicly to announce the unsuccessful termination of negotiations. Lists specifying the proposed concessions to be granted to the United States by Argentina, and the proposed concessions to be granted to Argentina (the latter tentative pending hearings in this country as required by law) were attached to the memorandum of June 13. The Department is informed by the Argentine Embassy that this memorandum has just reached the Argentine Government by airmail. You should,

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\*It is understood, of course, that these proposals must be regarded as tentative pending consideration of views of interested persons as required by United States law. [Footnote in the original.]

<sup>23</sup> *Ante*, p. 287.

<sup>24</sup> Not printed.

at the earliest opportunity, call upon the President of Argentina and express the earnest hope of this Government that Argentina will find it possible to utilize this opportunity to consummate a trade agreement. You may state that our initiative in this matter has been personally considered and approved by President Roosevelt.

HULL

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611.3531/645 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, July 1, 1938—9 p. m.

[Received 10:55 p. m.]

179. Department's 81, June 25, 1 p. m. I this afternoon communicated the pertinent portions of the above telegram to the President of Argentina, who informed me that he had received nothing on the subject from his Foreign Office but that a letter from Espil had arrived today which touched on the subject in hand and seemed to cover the essential points. The President added that while, of course, the matter was in a sense for examination by the experts of the two Governments his experience as Minister of Finance had given him a general knowledge of the question, and that he felt very hopeful that an agreement could be concluded. He stated further that he felt that it was an absurd and anomalous position that two such countries as Argentina and the United States had not long ago concluded a commercial agreement. He also said that the atmosphere of cordiality which he felt existed at Washington was reciprocated here and facilitated negotiations.

I mentioned the date of July 7 and he remarked that he gathered from Espil's letter that this date was interwoven with British negotiations with the United States.

I re-emphasized the Department's staunch desire that this opportunity to begin negotiations be availed of and he said that he would endeavor to give me an answer by Tuesday the 5th if not before, and that meanwhile he would at once get in touch with his Foreign Office with a view to considering the memorandum forwarded from Washington.

WEDDELL

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611.3531/647

*The Argentine Embassy to the Department of State*

[Translation]

With reference to the memorandum from the Department of State dated June 13 in which there was transmitted the proposal of the

Government of the United States, the Government of the Argentine Republic, animated by the desire to arrive at the concerting of a treaty would be disposed to initiate negotiations on the following bases:

### I. EXCHANGE FORMULA

The Argentine Government would be disposed to accept a formula based on the principle proposed by the United States but on a lower percentage, compatible with the exchange situation.

According to the preliminary calculations made, not more than 6½ percent of the total exchange available for imports could be obligated. But the Argentine Government is disposed to establish that if the amount of our exports to the United States, after deduction of a reasonable annual sum and the transfers to the United States for the payment of the services of the debt, exceeds the amount to be granted in accordance with the foregoing paragraph, all the excess will be applied to the payment for United States imports.

There would have to be first deducted from this excess, the difference which may have been produced in former years, since the initiation of the agreement, between the exchange which the Argentine Government undertakes to grant by the first part of this section (*punto*) and that which it would have been necessary to grant on the basis of the exports and deductions contemplated in this second paragraph.

### II. CUSTOMS ADVANTAGES FOR ARGENTINE PRODUCTS

The Government of the Argentine Republic considers that the proposed schedule A of reductions and consolidations of the customs regime in force for Argentine products which would serve as a basis for the negotiations, would have to be modified in the way indicated in annex I.

### III. CUSTOMS REDUCTIONS FOR UNITED STATES PRODUCTS

The acceptance on the part of the United States of the modifications indicated in the foregoing section would permit the Argentine Government to consider to a limited extent, the granting of some of the reductions and consolidations of duties for the United States products which are requested in schedule B.

### IV. ALTERNATIVE IN CASE THE UNITED STATES DOES NOT ACCEPT NEGOTIATIONS ON THE BASIS OF SECTION II

If the United States should not be able to accede to the amplification and modification of schedule A as indicated in Section II, the Argentine Government would be disposed to initiate negotiations on the following bases:

Customs advantages for the Argentine products offered in the said schedule, the exchange formula indicated in Section I, and abandonment on the part of the Government of the United States of any request for customs reductions on United States products.

#### ANNEX I

Reduction of 50 percent in the customs duties on the following products:

[Here follows list of items in United States tariff schedules; items desired to be retained on free list, and certain other concessions desired.]

The Argentine Government reserves to itself the right to include, in the course of the negotiations, some products additional to the schedule presented, which might be of real importance in its exports to the United States.

(1) In all cases there shall be fixed in the treaty the resulting lower duty so that it may remain consolidated thus.

(2) There shall not be imposed on the products considered in the treaty, internal duties implying a prolongation of the customs duty or the indirect establishment of an import duty.

(3) Likewise, there shall not be carried out laws, decrees, or regulations which under pretext of sanitary purposes or those of policing, administration, et cetera, would modify the treatment consolidated in the treaty.

WASHINGTON, July 6, 1938.

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611.3531/647

#### *The Department of State to the Argentine Embassy*

#### MEMORANDUM

Reference is made to the memorandum of the Argentine Government, dated July 7 [6], containing counter-proposals on the subject of a possible trade agreement between the United States and Argentina.

That memorandum has been carefully studied by the Government of the United States, which is gratified to note that the Argentine Government would be disposed to accept in a trade agreement an exchange formula on the principle proposed by this Government. However, the percentage of total exchange available for imports offered by the Argentine Government for allocation to imports from the United States is far below any percentage, derived in accordance with the aforementioned principle, from the trade figures for any previous representative period.

With respect to the alternative formula set forth in Section IV of the memorandum of the Argentine Government, it may be noted that this Government could not give consideration to any proposal, even were the Argentine Government's exchange formula acceptable in its present form, which would not provide for assurances of reductions in the Argentine customs duties on some important export products of the United States.

While realizing the desire of the Argentine Government to secure concessions on as wide a range as possible of imports into the United States, it does not at this time appear possible to grant any substantial increase in the tentative concessions listed in the enclosure to this Government's memorandum of June 13, 1938.

Nevertheless, being animated as is the Government of the Argentine Republic with a desire to conclude a mutually satisfactory and advantageous trade agreement, the Government of the United States has given careful consideration to the possibility of adapting the Argentine counter-proposal in a manner acceptable to both Governments, in order that an agreement may be negotiated within the time limit which this Government has found it necessary to fix.

With this purpose in mind, the Government of the United States desires to submit for the consideration of the Argentine Government the following proposal:

1. With regard to exchange allocations for imports from the United States, there would be included in the agreement the proportional formula to which the two Governments have now agreed. However, instead of using the precise percentage derived from the import figures for 1932-34 (12.86%), the Government of the United States would be willing to accept 12.50%, which is the lowest figure this Government could agree to as approximately representative of the share of the United States in the import trade of Argentina. Moreover, in recognition of the exchange problem confronting the Government of Argentina, the agreement would provide that if in any calendar year beginning in 1939, the Argentine Government found itself unable to make available for imports from the United States 12.50 percent of total exchange allocated for imports, the agreement would terminate automatically on February 1 of the following year.

2. With respect to the concessions which may be granted by the two Governments on commodities, the Government of the United States would expect, in return for concessions to Argentina substantially as indicated in List A annexed to this Government's memorandum of June 13, (a) reductions, representing an improvement in present customs treatment, in the Argentine customs duties on important products imported from the United States, including:

(Roughly in order of listing in the Argentine tariff)

Prunes

Passenger automobiles (weighing from 1,000 to 1,500 gross kilos, inclusive)

Automobile parts

Lumber

Cash registers, adding, accounting and calculating machines and parts

Paints and lacquers

Apples (on a seasonal basis)

Automatic refrigerator parts

Radio parts and tubes

and (b) binding of duties on other products.

It is hoped that the Argentine Government will be able to accept this revised proposal, beyond which this Government feels unable to go. As indicated in this Government's memorandum of June 13, negotiations for a trade agreement with Argentina and publication of the terms thereof would have to be completed no later than early September, and in order that this may be accomplished, the announcement of trade-agreement negotiations should be made at the earliest possible date, no later than July 13.

WASHINGTON, July 7, 1938.

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611.3531/646 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, July 12, 1938—noon.

[Received 3:30 p. m.]

196. Department's 81, June 25, 1 p. m.; and my 179 of July 1, 9 p. m. Have received today a strictly confidential note from Foreign Office stating that on July 7 the necessary instructions were given to the Argentine Ambassador at Washington with a view to establishing the basis upon which the negotiations for a commercial treaty could be undertaken.

These instructions included a formula regarding exchange based on the principle suggested by the United States Government and a request for an increase in the reductions of customs duties affecting Argentine products offered by the Government. If these conditions are accepted the Argentine Government would be willing to consider a reduction of the customs duties affecting certain American products.

Note adds that United States Government has submitted a memorandum giving its views on Argentine counter-proposal and that this document is now being studied by the Foreign Office in order to give Argentine negotiators proper instructions at the earliest opportunity.

In conversation with Counsellor of Embassy official of Foreign Office stated that tariff reduction on Argentine products were not of primary importance implying that exchange principle was fundamental.

WEDDELL

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611.8581/653

*The Argentine Embassy to the Department of State*

[Translation]

The Argentine Government, in receiving the Memorandum of the Government of the United States, has noted with pleasure the spirit of comprehension of the effort which we have made to accept as a basis for negotiation the exchange formula proposed by the Department of State.

This formula is an integral part of the proposal made and its acceptance cannot be considered separately, inasmuch as it is dependent upon the other basic conditions laid down in the Argentine counter proposal.

The Department of State proposes to reduce from 12.86 percent to 12.50 percent the proportion of exchange to be authorized for the importation of United States products. The Argentine Government insists upon the limit of 6.50 percent, calling attention to the fact that the 6.50 percent suggested in the counter proposal of July 7 represents a minimum base that could be increased to 12.50 percent or even more if the future exchange situation would so permit.

The recognition by the Government of the United States of the exchange situation faced by the Argentine Government, in facilitating the discussion of this point, permits strong hope to be cherished that the Department of State assigns the proper value to the counter proposal of the Argentine Government of July 7 [6], which constitutes an exception within the regime of the agreements signed up to the present time and that that counter proposal will come to be considered as a satisfactory solution of the problem raised.

The Argentine Government has considered in its last proposal that it was necessary to expand List A of the concessions for Argentine products with the object of removing any possibility that within a short period the agreement reached after so many years of labor and expectation, might expire by reason of the lack of exchange for its fulfillment.

Only through such expansion would the expectations of both parties be satisfied, because only in this event could reductions of a limited character be granted for some United States products. If that expan-



sion is not possible, such reductions would have to be rejected in their entirety.

The Argentine Government has learned with great satisfaction through its Ambassador in Washington that the Department of State would be disposed to continue discussions regarding the terms of the agreement with the object of making the preliminary announcement as soon as circumstances would permit an accord to be reached on the fundamental points and (the Argentine Government) gives due appreciation to the possibility that for reasons of the moment the Government of the United States could not see its way clear to accept the Argentine proposal at this time. With respect to this, it hopes that a more detailed analysis of the counter proposal of July 7 by the competent authorities of the United States, will permit conversations to continue on the basis therein indicated and that they will constitute a position from which (the two Governments) would only be separated by a matter of details.

WASHINGTON, July 13, 1938.

611.3531/653

*The Secretary of State to the Argentine Ambassador (Espil)* <sup>BT</sup>

WASHINGTON, July 20, 1938.

EXCELLENCY: I have the honor to refer to the recent memoranda exchanged between our Governments regarding various questions which have arisen in connection with efforts to establish a mutually satisfactory basis for a trade agreement and, in particular, to your memorandum of July 13 last on the subject.

While it is naturally a source of deep regret that it has not proved possible to proceed immediately with the negotiation of a trade agreement, I believe that the efforts made in recent weeks will contribute materially to the ultimate realization of this important object. The continued desire of both our Governments to arrive at a mutually satisfactory agreement, from which the people of both countries would derive many and substantial benefits, affords the best possible assurance that solutions eventually will be found to the difficult problems involved.

With this end in view, study will continue to be given to the various aspects of the problem, the nature of which has been greatly clarified by the recent discussions. I venture to hope that the Government of Argentina will likewise continue its examination of the questions presented and that on the basis of these studies the exploratory discussions can continue.

It is the earnest desire of this Government that as a result of the further studies and exploratory discussions above envisaged solutions can be found which will permit definite negotiations to be instituted as soon as an opportune time for doing so again arrives.

Accept [etc.]

For the Secretary of State:

SUMNER WELLES

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611.3531/665b

*The Under Secretary of State (Welles) to the Ambassador in Argentina (Weddell)*

WASHINGTON, July 20, 1938.

MY DEAR MR. AMBASSADOR: We have just been informed by the Argentine Ambassador that his Government will not undertake to grant to the United States more than 6.50 percent of the total allocation of official exchange for imports. In view of our inability to accept a share so far out of line with any previous representative period, it appears certain that trade agreement negotiations are postponed for the present. This affects, therefore, some of the interesting points raised in your letter of June 17.<sup>24a</sup>

We have given some thought, and no doubt American exporters and producers may give some thought, to the prospect that any recourse of the Argentine Government to this market for loans may presently result in the Argentine Government's citing the loan service as a reason Argentina must take less of our goods or take them on terms less fair to the American producers. It is anomalous that access to American credit facilities should be regarded by the borrowing country as a reason for treating American products worse than the competing products of other countries. For the present this consideration may have no practical effect on the ability of Argentina to borrow here on favorable terms but it can hardly be disputed that this is a weakness in the Argentine commercial policy and system of reasoning in these matters, and bankers and underwriters are always sensitive to any state of public opinion which may affect the marketing of any issue of bonds.

We understand that European creditor countries regard access of foreign borrowers to their public credit markets as a privilege for which they find means to stipulate for compensation in other aspects of their relations with the borrowing country. We do not seek to treat Argentina in this way but it is certainly fair to expect that their

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<sup>24a</sup> Not found in Department files.

further entry into our loan market should not be turned to our added disadvantage in exchange matters.

On your second point, the fact is that the concessions we have granted in trade agreements with other countries and have generalized to Argentine products have probably not been of importance to Argentine exports. The articles which are of interest to the Argentine have not been included in other trade agreements precisely because Argentina is the principal supplier of the United States for these products. Our concessions on industrial products are naturally of little interest to Argentina, and it happens that our agricultural concessions have not been on goods that Argentina could supply.

Neither is there any very satisfactory statistical reply to the question as to what increases in Argentine exports of wool, linseed, et cetera, might be anticipated from a trade agreement. I am sure the Argentine authorities can see that such an agreement would give them real and important advantages, whether it increased sales or increased return on whatever sales they actually do make here, which, of course, may vary from year to year with our crop and market conditions. The swings in our purchases of such products as wool and linseed may be and recently have been extreme. When we import 14,893,000 bushels of flaxseed in the first five months of 1937 and 6,619,000 bushels, under the same tariff conditions, in the same period in 1938, we would have to be cautious in discussing anticipated increases in export volume. In both wool and flaxseed we could expect that future average imports will exceed past average imports from Argentina, but not the imports we have had in abnormal years. In view of the inability of the two Governments to reach a common basis of negotiation, however, this all has to remain only hypothetical for the time being.

Sincerely yours,

SUMNER WELLES

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611.3531/664

*The Ambassador in Argentina (Weddell) to the Secretary of State*

No. 2155

BUENOS AIRES, August 17, 1938.

[Received August 26.]

SIR: I have the honor to enclose as of possible interest to the Department a memorandum prepared by the Consul General relating to the proposed United States-Argentine Commercial Agreement and which is based on conversations with Dr. Alfredo Louro and others in the recent past.

Respectfully yours,

ALEXANDER W. WEDDELL

## [Enclosure—Extracts]

*The Consul General at Buenos Aires (Davis) to the Ambassador in Argentina (Weddell)*

Buenos Aires, August 16, 1938.

SIR: I have the honor to submit herewith for your consideration certain observations on the subject of a United States-Argentine trade agreement, based on conversations with Dr. Alfredo Louro and others during the past week. It is believed that they should be of interest in the light of the speeches made on August the twelfth and their reception in the local press. Attention is drawn in this connection to the August fourteenth issue of *La Nación* which contains an editorial on the subject of Dr. Groppo's speech entitled "La politica comercial".

The frank statements of the Minister of Finance at the Chamber of Commerce banquet on Friday brought into the open views which have been expressed unofficially on innumerable occasions by Argentine officials, bankers and economists. They indicate that the issue is really clear-cut and that Argentina will retain its artificial exchange restrictions against United States commerce as long as the United States keeps its artificial sanitary restrictions against Argentine meat. There seems to be real fear among Argentines that the British market for meat is a declining one and that desperate measures are warranted for the saving of the country's principal industry. Attention continues to be focused on this industry and there is little or no interest in the problematical benefits that would accrue to Argentina from the lowering of United States tariffs on items other than meat.

Argentina, while it has an academic interest in the attempts of the United States through its Trade Agreements program to promote freedom of trading, is seemingly not interested in a pooling of efforts towards this end. Dr. Louro when questioned on this point in unofficial conversation stated that American efforts (1) had failed to induce Britain, France, Germany and Italy to eliminate their quotas and clearings, and (2) had not brought about the reduction of European tariff barriers on products in which Argentina was interested. He seemed not to believe that Argentina could accomplish anything by insisting on free and equal treatment from its principal customers as the United States had done. He thought that United States acquiescence in the French quotas illustrated the hopelessness of the task for Argentina, and therefore felt that Argentina should play safe and get what it could by bargaining in preferences.

The general feeling seems current among Argentines that formal adherence to the principle of multilateral balancing would not materially assist it unless restrictions and duties against Argentine prod-

ucts elsewhere were to be reduced or eliminated. In other words, it is the "other fellow" that must make the first move. The men at the helm in Argentina feel that in the present state of world uncertainty they would prefer not to risk the temporary partial loss of markets which might be incidental to the period of readjusting the country's exports to a new trade agreement policy.

The Roca-Runciman type of trade agreement,<sup>25</sup> which is supposedly Argentina's standing offer to all comers (except apparently Japan), has set a strong precedent. Dr. Louro is inclined to think perhaps this treaty was a mistake since it unnecessarily limits Argentina's freedom of action. However, he insists that it is a definite factor to be reckoned with and Argentina would not dare to make an arrangement which was at variance with its principles; that is, reserving exchange created by exports for each contracting country's uses on the bilateral principle.

In the meantime it is proposed to make the United States feel the full weight of Argentina's ability to restrict imports through exchange control. Argentina wishes to make it clear that it will not buy unless it can sell. This same principle has been applied to Italy for some months past and if necessary will be applied to other countries also, in accordance with the provisions of Argentina's exchange agreements which call for the automatic adaptation of official exchange allocation to the extent of each country's purchases here. (See Consul Ravndal's letter to the Ambassador of May 20). Thus there is not exclusive discrimination against the United States, but rather discrimination against those countries which have persistently favorable balances in their trade with Argentina.

Respectfully yours,

MONNETT B. DAVIS

835.5151/942

*The Ambassador in Argentina (Weddell) to the Secretary of State*

No. 2239

BUENOS AIRES, October 4, 1938.

[Received October 11.]

SIR: I have the honor to transmit a confidential communication addressed to me under date of October 4 by Consul General Davis, setting forth a conversation held by him with the Chief of the Argentine Exchange Control Office in which a possible trade agreement with the United States, and also the possibility of a dollar loan to be floated in New York, were discussed.

Respectfully yours,

ALEXANDER W. WEDDELL

<sup>25</sup> See *Foreign Relations*, 1933, vol. iv, pp. 722 ff.

[Enclosure]

*The Consul General at Buenos Aires (Davis) to the Ambassador in Argentina (Weddell)*

BUENOS AIRES, October 4, 1938.

SIR: I have the honor, with reference to the Consulate General's despatch to the Embassy of August twenty-fifth and previous reports from this office based on information obtained informally from Mr. Louro, to submit the following brief outline of points brought up in a conversation yesterday. A more detailed report will follow.

According to the source mentioned, the Argentine Government is about to enter a new active phase of study of a possible trade agreement with the United States. While no country committee has as yet been formed, a general commercial policy committee charged with the broader aspects of the questions involved is now functioning and will probably recommend the personnel of a country committee shortly. Most of Argentina's recent "trade agreements" have been in actual fact little more than exchange agreements and the question of reducing tariffs has not been given much consideration. The Argentine Government will therefore have to create an organization to supply this lack, and is studying the American Trade Agreements "set up" with this end in view.

Mr. Louro is preparing a report to his Government on the results of the trade agreements program in the United States and also on Argentina's present trade orientation and the country's international commercial tendencies. He is comparing Argentina's present system of trade treaties with the United States program and apparently attempting to find points of reconciliation which might be made the basis of an agreement between the two countries. Inevitably he will contrast with the American program the operation of compensation agreements such as that with Germany. Under the latter system Argentina's sales are determined entirely by the measure of its purchases from Germany and supposedly there is no limit to the possibilities of expansion as long as Argentina is willing to absorb increased amounts of German products. His report therefore will discuss among other questions the extent to which the increased absorption of German goods is possible or desirable from the point of view of the consumers, the general economy and Argentina's international relations. Mr. Louro said the question of credits will be raised also, and that a point in favor of the United States may be made in this connection.

On the subject of the exchange question Mr. Louro stated that he was about to recommend to his Government that it offer the United States 9½ per cent of the total official exchange created by exports as a basis for opening trade agreement negotiations. He considered

that the agreement of the United States to this percentage, with the understanding that other merchandise would be allowed to be cleared through the "free market" as heretofore, would be decidedly to its advantage, especially as under a quota system the United States might be considerably worse off than it is now. The present system, with the existence of the "free market" for non-prior-permit imports, at least has the merit of flexibility, which of course a quota system would not have.

The Argentine Government, judging by remarks of both Mr. Louro and Mr. Irigoyen, has been studying the question of making up the loss of revenue incident to the possible reduction of customs duties on automobiles by increasing gasoline taxes and the internal taxes on licenses. It is believed that a decision has now been made to the effect that Argentina would be able to accept the United States proposals for a reduction of certain tariff items on automotive products. Thus it appears that a method of overcoming the fiscal difficulty, which was considered an important stumbling-block some months ago, has been found.

As to the dollar loan, in connection with which a further delaying amendment has been filed, extending the time-limit to October tenth, Mr. Louro stated that officials of the Ministry of Finance were most optimistic about the prospects of its flotation. There was no question but that the Argentine Government needed the money, and he appeared to consider it probable that the New York underwriters' terms would be accepted, provided they were no less favorable than the offer of last August; namely, ninety-two. He added, however, that only the Finance Minister would really be able to answer this question.

Respectfully yours,

MONNETT B. DAVIS

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611.3531/678 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, October 25, 1938—11 a. m.

[Received 12:55 p. m.]

296. Referring to information from Louro that a special mission might be sent to Buenos Aires to continue trade negotiation conversations, I consider it important that some preparatory work precede such a step, if contemplated, otherwise not only the success of the special mission but also the prospect of concluding an agreement might be seriously prejudiced. It would be unfortunate to have such a mission come to Argentina with the inevitable publicity, both official and public, which would accompany it until there is reason to believe that tangible results can be obtained within a reasonable period.

The preoccupation of the Argentine officials with the exchange question and our failure to ratify the sanitary agreement<sup>26</sup> has tended to obscure the real value of proposed concessions to the Argentine. I am convinced that the local higher officials have not as yet had presented to them a sufficiently detailed study and until this is done they are inclined to regard concessions on our part as inadequate, theoretical and of small consequence. In such circumstances they would be apt to interpret the coming of a mission as evidence of a willingness on our part to trade concessions for a relaxation of exchange control. A further disappointment at this time would, in my opinion, seriously prejudice the success of future negotiations. Therefore as previously stated I consider it most desirable to have a study of the advantages of tariff concessions precede, and not follow, the arrival of any such mission.

I therefore suggest that the Department send its detailed study with full instructions to the Embassy authorizing it and the Consulate General to undertake series of informal conversations with the Argentine country committee with a view to presenting an objective analysis of advantages to be derived therefrom by the Argentine Government. This I believe could be done without publicity and without arousing false hopes. I felt that we could count on the cooperation of local government officials in such meetings during which we would undertake to stress the value to this country of tariff advantages in such an extensive market as that of the United States.

In any event I suggest that the Department await my arrival before deciding to send a special mission to Buenos Aires.

WEDDELL

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835.5151/979 : Telegram

*The Chargé in Argentina (Tuck) to the Secretary of State*

BUENOS AIRES, December 15, 1938—3 p. m.  
[Received 3:59 p. m.]

327. For the Acting Secretary. The Department will have grasped the significance of the information contained in the Consulate General's strictly confidential telegram of December 12, 1938,<sup>27</sup> reporting that beginning January 1 imports into Argentina through the free market of 136 classifications of merchandise will be prohibited entirely.

A careful analysis of the complete list of these articles, which has been forwarded by air mail, shows that American trade stands to lose some \$25,000,000 United States currency annually.

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<sup>26</sup> *Foreign Relations*, 1935, vol. iv, p. 296.

<sup>27</sup> Not printed.



Contrary to expectations of the automobile importers, imports of automotive products through the free market are to be restricted to approximately 20 per cent of the 1938 sales. Importers had been led to believe that their business would not be restricted beyond the natural 30 per cent reduction anticipated for the new season.

Next to automotive products the most important restriction is in tin plate of which we sold 4,500,000 pesos during the first 9 months of the current year. Local *frigoríficos*, whose plants are adapted to cut American tin plate, assert that if they should not be able to obtain the necessary supplies of raw material from the United States they will have to purchase new equipment designed to handle British or German varieties.

The inevitable result will be a substantial diversion of our trade to European competitors and the establishment, on a more or less permanent basis of competitive lines heretofore inferior to ours.

The countries in order of importance which will be most affected by these restrictions are the United States, Japan and Italy. However the United States stands to lose four times more than either of the remaining two.

While these restrictions, according to the Consulate General's information, will become operative on January 1, they will in all probability gradually become known within the next few days inasmuch as beginning December 11 exchange brokers were authorized to submit applications for prior permits for free exchange for use up to the end of March 1939 and the American Chamber of Commerce has circularized its members to report if any application for free exchange for use in the new year should be refused.

Under the circumstances and in view of the far-reaching effect of these restrictions upon American trade I recommend that as soon as they become generally known, I be instructed to call upon the Minister for Foreign Affairs and to register a strong protest. I further suggest that I be authorized to inform him confidentially of the purpose of the visit of Fowler and Sappington<sup>28</sup> (Department's 177, December 2, 6 p. m.)<sup>29</sup> and urge that his Government should [agree] to a truce, or to a gentlemen's agreement, at least for the duration of their visit, during which time it is hoped to reach a mutually satisfactory basis for trade agreement negotiations.

TUCK

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<sup>28</sup> By instructions of November 29, 1938, William A. Fowler, Assistant Chief of the Division of Trade Agreements, and James C. Sappington, Jr., of the same Division, were directed to proceed to Buenos Aires and Montevideo to discuss trade relations with officials in those countries (611.3531/692a, 692b).

<sup>29</sup> Not printed.

611.3531/697a : Telegram

*The Acting Secretary of State to the Chargé in Argentina (Tuck)*

WASHINGTON, December 17, 1938—2 p. m.

185. Your 327, December 15, 3 p. m. Unless you see objection you should refer to the visit of Fowler and Sappington as evidence of the intention of this Government to proceed as rapidly as possible to find a basis for trade agreement negotiations and point out that the action against our trade seriously complicates our problem of negotiating a trade agreement. You may remind the Argentine authorities that the granting of substantial concessions on Argentine agricultural products presents serious enough difficulties for us in any case and point out that these difficulties are very greatly increased by action which tends to strengthen the hands of opponents of the trade agreement. I do not think it advisable to request a truce limited even by implication to the duration of Fowler's and Sappington's visit or any other period, as this implies that if a basis cannot be found hostile action against our trade would be expected or even considered as warranted. Rather it seems advisable to register our objection on the general ground of increasing trade barriers in the face of a world situation which urgently demands action of the reverse order and particularly at a time when such action seriously prejudices concrete steps which we are trying to take to work out an arrangement for the expansion of trade.

WELLES

611.3531/699 : Telegram

*The Chargé in Argentina (Tuck) to the Secretary of State*

BUENOS AIRES, December 28, 1938—4 p. m.

[Received 7:26 p. m.]

333. Department's 185, December 17, 2 p. m. Accompanied by Consul General Davis and Commercial Attaché Dunn, I called yesterday evening by appointment on Cantilo who had returned from Lima on the 24th. In the plainest possible language I called his attention to the situation which has arisen as a result of the refusal of prior permits for the importation of American goods. I impressed upon him the injury already being done to individual businesses by the refusal of permits, resulting in extreme pessimism created in the American business community, and the extent to which American trade stands to lose. I referred to the visit of Fowler and Sappington as evidence of our intention to proceed as rapidly as possible to find a basis for trade agreement negotiations and pointed out that the application of these restrictions might seriously complicate the problem of negotiating a trade agreement.

The discussion which ensued, which was implemented by a strong and forceful presentation of technical information supplied by Davis and Dunn, only served to reveal how completely Cantilo fails to understand the basis and meaning of our commercial policy, the importance of American purchases in Argentina during recent years, as well as the potential advantages to be derived from a trade agreement with the United States. He reverted continuously to the original thesis that we should not expect to sell since we were not buying Argentine products, referred to our high tariff, and to our failure to ratify the sanitary convention and showed by his conversation that he thinks in terms of bilateral balancing agreements to the exclusion of any other concept. As regards the visit of Fowler and Sappington he declared that he welcomed their presence in Argentina since it would give them the opportunity of realizing how necessary these restrictions are.

While I feel that the interview was on the whole discouraging and that Cantilo turned a deaf ear to the plea that his Government's action might prejudice the success of present plans to work out a program for the expansion of trade, I gained the impression that our representations on behalf of individual businesses, particularly with respect to the injury resulting from the abruptness and severity of the Government's measures, had some effect. I feel therefore that further representations on this point to Espil and Cantilo might prove helpful. On taking leave of Cantilo he requested Consul General Davis to furnish him with a memorandum supported by statistics setting forth for the consideration of the Ministries more specially concerned the arguments set forth.

TUCK

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ENGAGEMENT BY THE ARGENTINE GOVERNMENT OF OFFICERS OF  
THE U. S. ARMY AIR CORPS TO SERVE AS MILITARY AVIATION  
INSTRUCTORS; OBJECTIONS OF THE BRAZILIAN GOVERNMENT

835.248/85: Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, March 30, 1938—10 p. m.

[Received March 30—9: 40 p. m.]

78. For the Secretary and the Under Secretary.<sup>30</sup> An urgent letter just received from the Argentine Ministry [*Minister*] of War informs me that he has taken steps through the Ministry for Foreign Relations looking to securing from our War Department two instructors in each of the following branches: Blind and night flying; bombing and aerial

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<sup>30</sup> Sumner Welles.

marksmanship; air tactics; such personnel to impart instruction in schools and in special aviation courses.

The letter adds that having in mind the great importance and urgency from the standpoint of Argentine aviation of securing the instructors named, the cooperation of the Embassy is requested. May I express the earnest hope that it may be found possible to meet the wishes of the Argentine War Department in this respect. There have been recently delivered here a number of American military planes and it is doubtless in connection with the use of this equipment that this request is primarily made. However, its importance from my viewpoint is that it offers us opportunity to supply technical assistance to the Argentine Army which thus far has been given along general military lines by German officers. Specifically it would perhaps render unnecessary the instruction in blind flying proposed to be given by a German civilian pilot recently engaged for the Army and Navy and be a possible entering wedge toward our displacement of the aforementioned German tacticians here.

WEDDELL

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835.30/44 : Telegram

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

RIO DE JANEIRO, April 1, 1938—noon.

[Received April 1—11:45 a. m.]

75. For the Under Secretary. Aranha<sup>31</sup> has just telephoned to say that a report has reached him that our Government is sending a naval mission to the Argentine and asked me to ascertain at once from you if there is any truth in this. (My opinion is that Goes Monteiro, Chief of the General Staff, heard for the first time at Buenos Aires of the presence there of the three officers who have been acting in the capacity of advisers to the Argentine Navy.)

CAFFERY

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835.30/44 : Telegram

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

WASHINGTON, April 1, 1938—6 p. m.

47. Your 75, April 1, noon. Please inform Aranha that this Government is not sending any naval mission to Argentina nor has it been requested to do so. As he knows, three American naval officers

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<sup>31</sup> Oswaldo Aranha, Brazilian Minister for Foreign Affairs.

have been acting as instructors in the Argentine Naval War College for the past three years.<sup>32</sup>

I believe that the unfounded report he has received is due to the fact that the Argentine Government has requested this Government to lend the services of American instructors in aviation. This Government has agreed in principle to do this but the details have not yet even been discussed. Since this matter is as yet entirely confidential and any premature publicity would be unfortunate, I leave it to your own judgment whether to communicate these facts to Aranha for his strictly confidential information or not.

HULL

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835.248/88 : Telegram

*The Ambassador in Argentina (Weddell) to the Secretary of State*

BUENOS AIRES, April 4, 1938—6 p. m.

[Received April 4—5 : 50 p. m.]

84. For Secretary and Under Secretary. My 78, March 30, 10 p. m. Following request for appointment through Ministry for Foreign Affairs, Minister of War today called on me, emphasizing the urgency and importance of request contained in my telegram and asking my assistance. Despatch by air mail.<sup>33</sup>

WEDDELL

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835.248/88 : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*

WASHINGTON, April 7, 1938—11 a. m.

46. Your 84, April 4, 6 p. m. From the Under Secretary. I am somewhat perplexed by the request which the Minister of War has made of you in as much as the negotiations for the instructors have been progressing satisfactorily and rapidly. The Argentine Ambassador<sup>34</sup> informed me today that he is hopeful that it will be possible for him to complete arrangements with the War Department by the end of this week.

HULL

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<sup>32</sup> See *Foreign Relations*, 1934, vol. iv, pp. 539 ff.

<sup>33</sup> Despatch No. 1980, April 5, not printed.

<sup>34</sup> Felipe A. Espil.

835.248/92 : Telegram

*The Acting Secretary of State to the Ambassador in Argentina  
(Weddell)*

WASHINGTON, April 19, 1938—7 p. m.

50. Your 92, April 19, 1 p. m.<sup>35</sup> Only yesterday the Chief of Staff<sup>36</sup> informed me that seven of the eight instructors had already been designated, that the eighth shortly would be designated, and that the Argentine Ambassador has been kept closely advised throughout of all developments and has expressed satisfaction with the progress of the negotiations. Inasmuch as the Ambassador has informed me that he has transmitted to the Foreign Office by telegraph all important developments, it would appear, for your own information, that the present misunderstanding, which is similar to that which recently occurred regarding this same matter, arises from failure on the part of the Foreign Office promptly and currently in keeping the Minister of War fully informed of Espil's reports.

WELLES

835.248/98 : Telegram

*The Ambassador in Brazil (Caffery) to the Secretary of State*RIO DE JANEIRO, May 11, 1938—1 p. m.  
[Received May 11—12: 25 p. m.]

106. For the Under Secretary. Second paragraph Department's telegram 47, April 1, 6 p. m. Associated Press despatch from Buenos Aires published here asserts that the Argentine Government has contracted for the services of American military instructors in aviation and that they are to leave Washington for Buenos Aires within the next few days. The officers are said to be specialists in night flights and aerial bombardment. This despatch is attracting considerable attention here.

I would appreciate any pertinent information.

CAFFERY

835.248/98 : Telegram

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

WASHINGTON, May 12, 1938—noon.

64. Your 106, May 11, 1 p. m. I expect that the Argentine Government and this Government will make some announcement the end of

<sup>35</sup> Not printed.<sup>36</sup> Gen. Malin Craig.

this week or the beginning of the week following with regard to the question of aviation instructors.<sup>37</sup> Until such time I think it preferable for you to avoid making any comment to the Foreign Office if you can avoid it. If, however, Aranha requests information, you may say that a short time ago the Argentine Government requested the services of American aviation instructors and that this Government was glad to be able to comply with the request in the same manner as it had complied with the request of the Brazilian Government to furnish naval<sup>38</sup> and military advisers<sup>39</sup> for the use of that Government. You may add that I am sure he will agree that it would seem to be in line with the inter-American policy of this Government and of the Brazilian and Argentine Governments that services of this technical character be furnished whenever possible by nationals of one of the American republics in preference to nationals of non-American powers.

HULL

835.248/100 : Telegram

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*The Ambassador in Brazil (Caffery) to the Secretary of State*RIO DE JANEIRO, May 19, 1938—9 p. m.  
[Received 9:50 p. m.]

119. For the Under Secretary. Aranha spoke to me at great length this afternoon and repeatedly insisted that I let you know that he is "alarmed and hurt" over the recent action of the American Government in agreeing to send military aviation instructors to Buenos Aires and the recent action reported to him by Pimentel Brandao<sup>40</sup> of agreeing to allow Argentine naval officers to serve on American naval vessels. He pretends to see in this a change of American policy in regard to Latin American relations. He spoke of the traditional relations hitherto existing between Brazil and the United States and allegedly believes that the United States is now forcing Brazil to look after her own interests without expectation of help from Washington. He spoke of the recent visit here of ex-President Justo who spent most of his time, according to Aranha, in attempting to persuade Brazil to line herself with the Argentine Republic and place no further

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<sup>37</sup> A statement was made by the Secretary on May 18 to the effect that contracts had been signed under which eight officers of the U. S. Army Air Corps would proceed to Argentina to give technical instruction; Department of State, *Press Releases*, May 21, 1938, p. 598.

<sup>38</sup> See Naval Mission agreement signed May 27, 1936, Executive Agreement Series No. 94, or 50 Stat. 1403.

<sup>39</sup> See Military Mission agreement signed November 12, 1936, Executive Agreement Series No. 98.

<sup>40</sup> Mario de Pimentel Brandão, Brazilian Ambassador in the United States.

reliance on the United States; Justo, he said was very inimical in his criticisms of the United States in general, Department of State policies, et cetera. Justo offered in the name of President Ortiz to allow Brazil to purchase three of their destroyers now building in England.

I of course endeavored to persuade Aranha that he was entirely mistaken but after listening to my remarks he again asked me to send you the message described above.

He then added, "This is all hard enough for me to understand but it is even harder for me to explain to our army, navy, press, public, and President Vargas as well."

CAFFERY

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835.248/100 : Telegram

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

WASHINGTON, May 20, 1938—4 p. m.

69. Your 119, May 19, 9 p. m. A few days ago Pimentel Brandão called to see me regarding the report he had received that the Navy Department had changed its former policy and was now prepared to admit naval officers from the other American republics to service on United States naval vessels even during the time that such vessels were taking part in fleet maneuvers. The Ambassador told me that he had reported this information to Aranha and that Aranha had instructed him to express his concern and to tell me that he was sending an airmail letter containing his views in the matter. For your confidential information, Pimentel Brandão told me that he considered such a policy on the part of the Navy Department would be most desirable and helpful.

I informed the Ambassador that the report was completely unfounded, that the Navy Department had given the utmost measure of consideration to the possibility of undertaking such a policy as that referred to, but had reached the determination that it was not practicable. I requested Pimentel Brandão to inform Aranha that the report was totally inaccurate, and I wish you would confirm this to him.

With regard to the sending of military aviation instructors to Argentina, I am unable to comprehend what objection there can be to such a step on the part of this Government. At the present time we have serving as advisers to the Brazilian Government a considerable number of American officers from both the naval and military services. It would seem to be impossible for this Government to justify affording such facilities to the Brazilian Government and denying the same facilities to the governments of other American republics,



provided this Government is in a position where it can render the services desired. Furthermore, as was pointed out to you in a recent telegram, the Argentine Government was understood to have received offers for the extension of such facilities from both the German and the Italian Governments, and it would seem most decidedly in the interest of inter-American solidarity that such services be afforded when practicable by one American government to another, rather than by a non-American power.

For your strictly confidential information, you are, of course, aware that Aranha has consistently appeared to believe that in matters of this kind the United States should afford such facilities to Brazil and should deny them to Argentina. During these past years I have never received any information which would seem to show that former President Justo was inimical to the United States nor that he distrusted the policy of this Administration. On the contrary, I very decidedly gained the impression that it was his particular desire to assist in creating a far more cordial and cooperative relationship between his country and the United States than had previously existed. In your conversation with Aranha I wish you would inform him that you have advised me of his message to which I have, of course, given the utmost thought and consideration and that I deeply regret the feeling he has expressed. You may also say to him that, in as much as one of the reports he received is completely unfounded, and in as much as the other matter to which he referred is one which derives from the desire of this Government to increase and improve its friendly relations with all of the American republics on a basis of equality of treatment to all, and because of the other considerations set forth above, I hope that on further reflection he will see that such a step on the part of the United States in no sense indicates the slightest intention on our part of departing from our traditional policy of a peculiarly close friendship with Brazil. It had seemed to me that during the past 3 years, particularly during the time that Aranha was Ambassador in Washington, that friendship had been made much closer. Certainly so far as this Government is concerned, it is our most sincere desire to continue along our traditional course.

HULL

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835.248/102 : Telegram

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

RIO DE JANEIRO, May 23, 1938—2 p. m.

[Received 5:40 p. m.]

124. For the Under Secretary. Department's telegram No. 69. Aranha insists on his point of view as set out in the first sentence of

the third paragraph of your telegram that the United States should afford facilities of the sort in question to Brazil and should deny them to Argentina. He insists also that the purpose behind the request of the Argentine Government for military aviation instructors is to prepare themselves for the eventual possibility of sending bombing planes to Brazilian cities. I, of course, endeavored to refute this but he is very stubborn in this case. He repeats and repeats that he does not understand your change of policy.

My opinion is that it is best to say nothing more to him on the subject.

CAFFERY

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835.248/102 : Telegram

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

WASHINGTON, May 24, 1938—11 a. m.

72. Your 124, May 23, 2 p. m. I concur in your opinion. I have discussed the matter very fully with the Brazilian Ambassador here, and he assures me that he is absolutely in accord with our own point of view and has so informed his Government. The point he stresses is that it is far more to the interest of Brazil to have American technical experts in the Argentine army than Germans or Italians.

HULL

## BOLIVIA

### INFORMAL ASSISTANCE TO THE STANDARD OIL COMPANY OF NEW JERSEY IN CONNECTION WITH THE CONFISCATION OF ITS PROPERTIES IN BOLIVIA<sup>1</sup>

824.6363 St2/238

*Memorandum by the Chief of the Division of the American Republics (Duggan) to the Under Secretary of State (Welles)*

WASHINGTON, March 10, 1938.

MR. WELLES: When the Bolivian Minister<sup>2</sup> was here this morning on another matter I inquired whether he had yet received any indication from his Government as to its attitude with regard to an international arbitration of the difficulty with the Standard Oil Company.

The Minister stated that he had received nothing official. Three days ago he received a letter from the Minister for Foreign Affairs in which the Minister stated his personal agreement with Mr. Guachalla's point of view, namely, that it would be to the national interests of Bolivia to settle the Standard Oil difficulty as promptly as possible and that the best way of doing this would be through some international arbitration. Mr. Diez de Medina stated that he had mentioned the matter to the President, as well as to certain Ministers of the cabinet, but not the Minister of Mines. Mr. Diez de Medina did not state, however, the reaction of these officials.

The Minister then went on to tell me that following a rather frank discussion which he and I had about two weeks ago of a purely personal character, he had written further in introducing the idea of an international arbitration and had also written *in extenso* to the Minister of Foreign Affairs detailing reasons why it was desirable for Bolivia to take steps to clear up its difficulty with the Standard Oil Company. In this letter Mr. Guachalla requested the Minister for Foreign Affairs please to read the letter to the President and to other members of the cabinet. Mr. Guachalla observed that this letter had crossed with the letter he had received from Mr. Diez de Medina in which the latter indicated his personal agreement with the plan for an international arbitration.

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<sup>1</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 275-311.

<sup>2</sup> Luis Fernando Guachalla.

In this connection the attached letter from Mr. Holman<sup>3</sup> of the Standard Oil Company points out that the period within which under the statute of limitations as amended the Company may file suit expires on March 22. It will be recalled that by a decree of October 22, 1937, the period for filing suit under the statute of limitations of the Civil Code was reduced from thirty years to ninety days. This decree later was amended to provide a sixty day extension. Mr. Holman states the Company's belief that it would be preferable if the filing of suit could be postponed until after the Bolivian Government has considered a [and?] come to some decision with regard to the proposal for an international arbitration.

From a procedural point of view it would of course be preferable that the Government come to some conclusion concerning international arbitration before the Company files suit, because once the Company files suit the Government might then state that since the matter is in the courts it cannot take any action pending decision of the courts.

The desirability is suggested for your consideration of a personal and informal talk with the Bolivian Minister, who I believe is doing all that he can to bring about a settlement of this dispute by means of an international arbitration. The Minister, I know, is in favor of keeping court action in the background and therefore might not be averse to sending a telegram to his Government suggesting that a further time be given the Company for filing its suit, during which period the Government itself would, it is hoped, come to some conclusion with regard to the proposal for an international arbitration.

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824.6363 St2/236 : Telegram

*The Minister in Bolivia (Caldwell) to the Secretary of State*

LA PAZ, March 10, 1938—10 a. m.

[Received 10:52 a. m.]

7. Confidentially informed through the Foreign Office that detailed reports by Guachalla as to his recent conversations in Washington on Standard Oil problem were read to the Cabinet at last meeting and made profound impression. Foreign Minister favors settlement but attitude of Government still doubtful.

Lawyers of the company are now convinced that presentation of case to court would definitely close path to any solution. They advised company yesterday to refuse to go to court on the ground of unconstitutionality of the court and of the decree of October 22nd.

CALDWELL

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<sup>3</sup> Not attached to file copy of this document.

824.6363 St2/243

*Memorandum of Conversation, by the Chief of the Division of the American Republics (Duggan)*

WASHINGTON, March 16, 1938.

I spoke with the Minister further about the Standard Oil difficulty. The Minister defined somewhat more precisely the exact nature of the proposal which he had urged upon his Government. The Minister stated that he doubted whether it would be politically feasible for his Government to submit this controversy to an international arbitration. It is his idea that the Supreme Court in acting upon the appeal which he indicated he presumed the company would file prior to March 22 should state that the decree of March 22, 1937, was not well founded in law, but that there were valid reasons for a recession [*recision?*] of the contract. This decision would uphold the cancellation of the contract but would in fact indicate that there was no ground for expropriation of the company's property. Thereafter the Government and the company would negotiate for a sale which the Minister indicated he thought could be arrived at without undue difficulty if the company has not set too high a price on the properties.

I indicated to the Minister that this was a somewhat different approach than that which I understood Mr. Welles had talked with him about. He agreed with this statement and said that he felt it was much more realistic considering the political situation and the temper of the Bolivian people with regard to the Standard Oil controversy.

I endeavored to draw the Minister out as to whether he would be willing to support before his Government a suggestion for an extension of the time given to the company in which to file its appeal. The Minister was not responsive to the suggestion along this line.

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824.6363 St2/239 : Telegram

*The Minister in Bolivia (Caldwell) to the Secretary of State*

LA PAZ, March 20, 1938—noon.

[Received 8:04 p. m.]

8. Under instructions from New York, Standard Oil Company case will be presented to the Supreme Court tomorrow afternoon (Monday). At the same time Metzger is instructed to present personally a letter to the Foreign Minister denying legal validity of the various decrees, reserving rights of the company under international law, and stating that the case is presented to court under protest to prevent Bolivian Government from contending that local remedies have not been tried.

Metzger's instructions contain the following sentence: "Metzger should first inform American Minister and ask him if he will personally accompany Metzger when letter is delivered."

I have explained to Metzger that the step suggested can not properly be taken without direct instructions from the Department.

CALDWELL

824.6363 St2/239 : Telegram

*The Secretary of State to the Minister in Bolivia (Caldwell)*

WASHINGTON, March 21, 1938—11 a. m.

3. Your 8, March 20, noon. You should not take the step suggested by the Company.

HULL

824.6363 St2/249

*Mr. E. Holman of the Standard Oil Company of New Jersey to the Under Secretary of State (Welles)*

NEW YORK, March 31, 1938.

MY DEAR MR. WELLES: With reference to your letter of March 18, 1938<sup>4</sup> and Mr. Palmer's telephone conversations with Mr. Duggan on March 21, 1938, we may advise that the Standard Oil Company of Bolivia filed suit before the presently existing Supreme Court of Bolivia at Sucre at two p. m. March 21, 1938.

On the morning of March 23, 1938 our representative, Mr. H. A. Metzger, delivered personally to the Minister of Foreign Affairs at his office in La Paz a letter dated March 22, 1938 written on the letter-head of the Standard Oil Company of Bolivia, copy of which is attached together with an English translation. Mr. Metzger was accompanied only by Mr. Franco, the local manager of the Company. The Minister read the letter in their presence and his reaction, as reported by Mr. Metzger, seemed to be one of understanding.

We deeply appreciate your continued active interest in this matter which has had and is having such a serious bearing on the security of American investments generally in Latin America.

Respectfully yours,

E. HOLMAN

<sup>4</sup>Not printed.

[Enclosure—Translation]

*The Standard Oil Company of Bolivia to the Bolivian Minister for Foreign Affairs (Diez de Medina)*

[LA PAZ,] March 22, 1938.

MR. MINISTER: Although a matter not directly connected with the Ministry under your most able direction, the Standard Oil Company of Bolivia takes the liberty of informing you that it considers it has a right to make respectful though formal protest against the denial of international justice resulting from the following facts brought about by the Supreme Government:

I. Cancellation of the contract between the Supreme Government and the Company with the subsequent confiscation of the properties of the latter by Governmental Resolution without previous judicial process.

II. The unprecedented action of having reduced, also by Executive order, the period of the statute of limitations, which in this case was 30 years under the Civil Code and which could be modified only by the Legislative Power in accordance with the Constitution in effect, to an arbitrary term of 90 days, later extended for 60 days—a term of 150 days that expires today.

III. The unconstitutional and irregular organization of the present Supreme Court, also by a decree of the Executive who should not intervene in the matter, by which the previous court constitutionally established was suppressed.

Notwithstanding the three points above mentioned, the Standard Oil Company of Bolivia, although under protest, is filing suit before the Supreme Court of Justice in order that it may not be alleged that the Company has not exhausted all local remedies.

Taking this opportunity [etc.]

STANDARD OIL COMPANY OF BOLIVIA

H. A. Metzger

*Representative in Bolivia*

824.6363 St2/285

*Memorandum of Conversation, by the Chief of the Division of the American Republics (Duggan)*

WASHINGTON, September 9, 1938.

During the course of the conversation, the Minister informed me that his Government had not looked with favor upon his plan for the termination of the difficulty arising out of the cancellation of the con-

tract with the Standard Oil Company of New Jersey. He recalled that his plan depended upon the Government in its presentation to the court suggesting that the caducity of the contract be declared, but not its cancellation. The Minister has been informed that the Government's presentation had already been made at the time of the arrival of his suggestion and that it did not include the proposition for declaring the caducity of the contract. Moreover, the Minister was informed that the Minister of Mines did not look with favor upon the idea.

The Minister expressed himself as in a very pessimistic way over the possibility of a settlement now being arrived at that would be satisfactory to both the Government and the Standard Oil Company.

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824.6363 St2/292

*Mr. T. R. Armstrong of the Standard Oil Company of New Jersey to the Chief of the Division of the American Republics (Duggan)*

NEW YORK, November 16, 1938.

DEAR MR. DUGGAN: AS we did not consider the matter at the time to be serious or significant, we did not report to you a denouncement made in September, 1938 against the Standard Oil Company of Bolivia by the Comptroller General of the Republic for alleged violations by the Company of exchange regulations reputed to have occurred during the period February 1, 1934, to February 4, 1935. In fact, our people in La Paz gained the definite impression from statements made after the filing of the denouncement by an official of the Y. P. F. B.<sup>5</sup> to a representative of Southern Radio Corporation, that the Y. P. F. B. in reality considered the transactions legally executed. The purpose of filing the denouncement was purely to discredit the Company in public opinion and as a part of the campaign of defamation against it.

About three weeks ago the Manager of the Company in La Paz was notified by a decree of the Comptroller General that unless proof of the legality of the exportation of the foreign currency was presented within a period of six days a large fine (Bs. 3,000,000.00) would be imposed. The threat was made that, if the fine was not paid, the Company's representative would be imprisoned. Just what has happened in La Paz since the expiration of the six days we are not advised. In the meantime, Mr. Metzger has arrived at La Paz and informed the American Minister of all pertinent facts.

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<sup>5</sup> Yacimientos Petroliferos Fiscales Bolivianos.



As reported to the Department, all of the files and records of the Standard Oil Company of Bolivia were seized and taken over by the Bolivian Government in March, 1937, being subsequently delivered to Y. P. F. B. On September 15, 1938 the Manager of the Standard Oil Company of Bolivia, Mr. C. Franco, was served with notice of the above denouncement phrased in vague terms but, in substance, claiming that the Company had violated the exchange regulations and stating that the only records available were the amount of Bolivian money remitted. Thereafter, the Manager replied to the denouncement stating, among other points, that the Company's records were all in the possession of the Government and asked permission to examine such records. This was at first refused on the ground that the Y. P. F. B. had all the information necessary. The statement accompanying the denouncement merely listed check numbers, dates and respective values in Bolivianos issued by the Company, and there is nothing to indicate that the Y. P. F. B. had evidence of the purpose for which these checks were issued. The Company is presumably obliged to prove the negative fact that the checks were not issued for the purchase of clandestine exchange. To do this we must search files which have been seized by the Y. P. F. B. and possibly despoiled. We must seek this evidence despite the fact that Bolivian law flatly prohibits the use of private files for bringing charges against the owners.

Eventually, on October 21, a term of six days, declared to be non-extendable, was granted for a representative of the Company to examine certain files. Our representative reports that the vouchers attached to the checks were not found, having been either misplaced or removed.

The Government claims that the amount involved is Bs. 2,870,942.48 and is threatening to impose a fine in that amount or more and possible imprisonment of the Manager if the fine be not paid. The charges are being preferred under a regulation which did not come into effect until after all of the transactions referred to occurred, with the exception of one, a minor amount.

Mr. Franco has petitioned for a delay of thirty days during which time the Accounting Department in Buenos Aires will forward photostatic copies of the records it has of all the transactions, which should prove their legitimacy. We doubt that the Government will go so far as to actually imprison Mr. Franco who, incidently, had no personal connection with the exchange transactions now questioned. However, the illegal imposition of a large fine without a hearing is a real possibility.

We will be glad to procure and furnish you with copy of the entire record if you wish to have it. However, as the matter is urgent, we ask that you request the American Minister, preferably by cable, to investigate the facts of the denouncement and promptly report the present status of the situation.

Yours very truly,

T. R. ARMSTRONG

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824.6363 St2/290a : Telegram

*The Acting Secretary of State to the Minister in Bolivia (Caldwell)*

WASHINGTON, November 26, 1938—4 p. m.

17. Armstrong reports that Standard Oil Company of Bolivia has been accused of illegal exchange transactions during 1934 and 1935 for which it may be subject to a large fine. Please report facts and present status of case briefly by telegram and forward full air mail report.

WELLES

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824.6363 St2/291 : Telegram

*The Minister in Bolivia (Caldwell) to the Secretary of State*

LA PAZ, November 27, 1938—10 a. m.

[Received 12:21 p. m.]

48. Referring to the Department's telegram No. 17, November 26, 4 p. m., Standard Oil Company was publicly charged by individual close to Y. P. F. B. with illegal export of 3 million bolivianos during 1934 and 1935, involving a possible fine in equal amount. Metzger brought from Buenos Aires documents which seem to disprove charges. Whole matter is now in hands of comptroller who has not as yet indicated his decision. Appeal to courts from an unfavorable decision would be subject to previous deposit of amount of fine.

Full report by air mail.

CALDWELL

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824.6363 St2/294

*The Acting Chief of the Division of the American Republics (Briggs) to Mr. T. R. Armstrong of the Standard Oil Company of New Jersey*

WASHINGTON, December 9, 1938.

MY DEAR MR. ARMSTRONG: Reference is made to your letter of November 16, 1938, and to subsequent correspondence, regarding the

charges of illegal exchange transactions which have been brought against the Standard Oil Company of Bolivia.

The Department has now received a complete report dated November 29, 1938 \* from the Legation in La Paz. As you are undoubtedly familiar with the steps taken by the Company's representatives to obtain evidence to refute these charges, I do not believe it will be necessary to review them here.

Mr. Caldwell reports that on November 14, 1938 the attorney for the Company presented a definitive reply accompanied by a photostatic copy of the accounts covering the period in question which had been obtained from Buenos Aires as those now in the possession of the Y. P. F. B. were not complete. These accounts show the origin and nature of each check purchased and have been presented at the Central Bank for certification.

The Minister adds that the verification by the Central Bank has not yet been received and that he is not able to say if or when the Comptroller General may make a decision.

Sincerely yours,

ELLIS O. BRIGGS

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\* Not printed.

## BRAZIL

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

832.5151/944 : Telegram

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

RIO DE JANEIRO, December 24, 1937—midnight.

[Received December 25—9:29 a. m.]

194. My telegram No. 193.<sup>1</sup> Decree law <sup>2</sup> regulating sale of export bills and other foreign exchange signed today as follows:

“Article No. 1. The sale of all export bills or values transferred abroad can only be made through the Bank of Brazil.

Article No. 2. The export bills referred to in article No. 1 will be distributed by the Bank of Brazil in accordance with the provisions of this decree law.

1. Daily, after having attended the necessities of the public administration, the remaining coverage will be distributed in accordance with the following order of preference: (1) Importation of merchandise and export freight charges. (2) Expenses of public utility companies. (3) Dividends and profits in general. (4) Other remittances.

2. The purchasers of the bills mentioned in paragraph No. 1, with the exception of those for public administration, will pay in national currency a tax of 3% of the value of the purchase.

Article No. 3. The Bank of Brazil will distribute exchange to the bank by means of delivery of the respective bills or drafts substituting them and by simple exchange of correspondence. Sole paragraph. The acts in connection with this distribution are not subject to stamp tax nor intervention of a broker.

Article No. 4. The contracts of purchase and sale of export bills may be made up to a maximum period of 6 months. Sole paragraph. Contracts which are not liquidated within that period by the actual delivery of export bills will be subject to payment of new stamps equivalent to double of that previously paid.

Article No. 5. The Bank of Brazil may with the authorization of Minister of Finance,<sup>3</sup> renounce when it judges convenient partially or totally the exclusive purchase of exchange granted to it by the present decree law.

<sup>1</sup> Not printed.

<sup>2</sup> Decree law No. 97, December 23, 1937, Brazil, *Diario Oficial*, December 24, 1937, p. 25524.

<sup>3</sup> Arthur de Souza Costa.

Article No. 6. The proceeds of the 3% tax mentioned in paragraph No. 2 of article No. 2 and the profits resulting from operations in connection with the monopoly of exchange will be credited to the account of the national treasury for the formation of an exchange fund, the application of which the government will opportunely resolve.

Article No. 7. Those infringing the above dispositions will be punished by a fine which the Minister of Finance will fix between the maximum limit of double the value of the transaction and a minimum of 5 contos of reis.

Article No. 8. This decree law will enter into effect upon the date of its publication.

Article No. 9. All dispositions to the contrary revoked."

The Minister of Finance has just advised me by telephone that the 3% tax will be utilized to form a fund for the payment of the foreign debt.

Although the Minister of Finance states that the present decree law does not infringe our trade agreement I am very doubtful in that connection and would like the Department's views thereon.

Please advise Department of Commerce.

CAFFERY

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832.5151/944 : Telegram

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

WASHINGTON, December 30, 1937—6 p. m.

100. Your telegram No. 194, December 24, midnight. It does not appear that the text of the decree law concerning the sale of export bills and other foreign exchange, as transmitted in your telegram under reference, in itself, is inconsistent with the provisions of the trade agreement. However, it is the opinion of the Department that, in the administration of the decree or any regulations issued pursuant thereto, the provisions of the trade agreement require that no tax be imposed on exchange sold for payment for imports from the United States which is not imposed in connection with payment for imports from every other country including countries with which trade is conducted on a compensation basis. It is also the opinion of the Department that the undertaking of the Government of Brazil, voluntarily and unilaterally communicated to this Government by the Ambassador of Brazil in his note of February 2, 1935<sup>4</sup> at the time of signing the trade agreement, entitles this Government to expect that the advantages contemplated in the agreement will not be impaired through the operation of exchange control and that the necessary exchange will be made available for payments, when due, for all imports from the United States.

<sup>4</sup> *Foreign Relations*, 1935, vol. iv, p. 340.

Should you anticipate any action under the decree which would not be in accord with the foregoing you should inform the appropriate officials of the Brazilian Government of the above-mentioned opinion of the Department.

HULL

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832.5151/952 : Telegram

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

RIO DE JANEIRO, January 4, 1938—3 p. m.

[Received 3:28 p. m.]

1. My telegram No. 194. It is my opinion that, notwithstanding assurances of the Brazilian authorities, there is danger of frozen credits situation here again on account of oversold exchange position of the Banco do Brazil.

CAFFERY

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832.5151/952 : Telegram

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

WASHINGTON, January 6, 1938—7 p. m.

1. Your telegram no. 1, January 4, 3 p. m. The exchange situation in Brazil is causing considerable alarm in American commercial circles and the Department is receiving numerous requests for information. Please telegraph fully regarding suspension of exchange transactions reported in the press but not yet reported by your Embassy. Give indication of (1) reasons for and expected length of time of suspension, (2) the situation regarding supply of foreign exchange and (3) available information as to whether the Central Bank intends to establish a fixed rate for the milreis in terms of the dollar.

HULL

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832.5151/955 : Telegram

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

RIO DE JANEIRO, January 7, 1938—2 p. m.

[Received 2:45 p. m.]

2. Department's 1, January 6, 6 [7] p. m. Full information concerning exchange situation was reported in my air mail despatch No. 235, December 30.<sup>5</sup> Pan-American Airways informs me that the

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<sup>5</sup> Not printed.

aeroplane carrying this despatch has been delayed 3 days through forced landing en route and will only arrive at Miami this afternoon. (Also in despatches No. 229 of December 29, No. 233 of December 30 and No. 244 of January 4).<sup>6</sup>

Sale of foreign exchange for remittance abroad has been entirely suspended since promulgation of decree law reported in my 194, December 24, midnight.

(1) Reason for suspension is oversold position of Bank of Brazil (my 1, January 4, 3 p. m.) which condition arose through (a) heavy commitments of the Bank in future exchange contracts when the milreis rate was around 15 to the dollar (my despatch 64, October 6, 1937<sup>7</sup>) and over-liberal policy in supplying exchange prior to October first; (b) reduction in supply of exchange for governmental purposes due to the abolition of 35% obligatory exchange quota; (c) the decrease in Brazil's favorable trade balance due to increasing imports and diminution in value of exports caused by sharp fall in coffee prices; (d) unusually heavy transfer of funds abroad due to the apprehension over political situation on account of events of November 10th as well as uncertainties of economic outlook. The Bank's position was further aggravated by losses incurred in not covering sales of important future foreign exchange before the recent depreciation of the milreis.

(2) When exchange operations were suspended on December 23rd the Bank of Brazil was oversold approximately \$10,000,000. However, since that time the Bank's position has been improved through the acquisition of export bills and is improving daily. Confidence is expressed that if the present rate of improvement continues the Bank will be able to allocate foreign exchange within a month.

(3) It is still uncertain whether the Bank of Brazil intends to establish a fixed rate for the milreis in terms of the dollar (an indication of the Bank's intention is given in the Bank of Brazil's instructions to commercial banks enclosed in my No. 229, December 29, 1937). The commercial banks are continuing to accept milreis deposits against liquidation of dollar drafts when exchange is available. The rate is that of 17.5 plus the 3% tax established by the Bank of Brazil.

Please inform Department of Commerce.

CAFFERY

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<sup>6</sup> None printed.

<sup>7</sup> Not printed.

832.5151/957 : Telegram

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

RIO DE JANEIRO, January 8, 1938—11 a. m.

[Received January 8—9:32 a. m.]

3. My 2, January 7, 2 p. m. The Minister of Finance has just informed me confidentially that the exchange position of the Bank of Brazil has improved so much more rapidly than he expected that it will be possible to resume the sale of foreign exchange on January 10th for the deposits already made in milreis for the purchase of foreign exchange.

Please inform Department of Commerce.

CAFFERY

832.5151/975 : Telegram

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

RIO DE JANEIRO, January 14, 1938—7 p. m.

[Received 8:31 p. m.]

8. My telegram No. 5, January 11, 3 p. m.<sup>8</sup> The Bank of Brazil and the American Chamber of Commerce for Brazil today reached the following agreement as regards the procedure to be followed whenever exchange is allotted for merchandise imported into Brazil from the United States: The drawers or remitters of drafts have the option of accepting either a 60-day exchange contract or a 90-day date draft drawn by the Bank of Brazil on a correspondent in New York, this agreement is retroactive to January 1, 1938, and will continue in effect during the duration of the present exchange control legislation. The Bank of Brazil reserves the right to liquidate the exchange contract or draft before the date of maturity and to allocate spot exchange for any or all transactions.

The 90-day draft feature represents a distinct advance for our exporters over the former procedure of giving 60-day exchange contracts since the latter are not negotiable whereas the drafts are. Furthermore, it places our trade as regards the exchange control situation on a par with the Germans as the German banks have been willing to liquidate 60-day exchange contracts in compensation marks while the one American bank here is unable either to liquidate these exchange contracts or to loan dollars against them.

The Minister of Finance informs me that he has today instructed the Bank of Brazil to allocate exchange in accordance with the agreement cited above for the period January 1 to January 7 inclusive. When further exchange allotments are made the above-mentioned pro-

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<sup>8</sup> Not printed.



cedure will be followed and while it is hoped that the allotments will be staggered over short intervals no assurances have been given when the next distribution will be made.

Please inform Department of Commerce.

CAFFERY

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832.5151/994 : Telegram

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

WASHINGTON, February 3, 1938—8 p. m.

21. Your telegram No. 8, January 14, 7 p. m., and previous and Department's telegram No. 100, December 30, 1937, 6 p. m. The Department recognizes that the arrangement reported in your telegram No. 8 between the Bank of Brazil and the American Chamber of Commerce for Brazil and as extended (your telegram No. 22, January 29, 1 p. m.<sup>9</sup>) represents an improvement over the situation immediately prior thereto. However, as stated in the Department's telegram No. 100, it is of the opinion that the undertaking of the Government of Brazil in the Brazilian Ambassador's note of February 2, 1935,<sup>10</sup> entitles this Government to expect that the necessary exchange will be made available for payments, when due, for all imports from the United States. Therefore, unless you perceive objection, you should communicate the following or the sense thereof (informally) to the Foreign Minister:

The Department appreciates the circumstances which prompted the Government of Brazil to take steps on December 24 last to impose restrictions upon foreign exchange operations, and the efforts of the Brazilian Government and the Bank of Brazil since that date to solve the present exchange difficulties have been followed with sympathetic interest. Nevertheless, the Department has always placed great reliance upon the undertaking of the Brazilian Government, contained in the note of the Brazilian Ambassador appended to the trade agreement, that the necessary exchange would be made available for payments, when due, for all imports from the United States.

The Department therefore hopes that Government of Brazil may soon restore the exchange situation to a basis consistent with the above mentioned undertaking of February 2, 1935. In this connection, it would be especially helpful to American trade at this time if an announcement could be made by the Brazilian Government of the adoption of a policy which would eliminate the existing uncertainty as to when dollar exchange will be allocated for past imports not already covered, as well as for current imports.

Please continue to keep the Department informed by telegram of developments in this situation.

HULL

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<sup>9</sup> Not printed.

<sup>10</sup> *Foreign Relations*, 1935, vol. iv, p. 340.

832.5151/1013 : Telegram

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

RIO DE JANEIRO, February 15, 1938—5 p. m.

[Received 5:10 p. m.]

34. The Minister of Finance has just handed me a copy of the following instructions which he issued today to the Bank of Brazil in connection with the allocation of exchange for importations from the United States:

“Normal importations represented by drafts will be liquidated by 30-day exchange contracts payable with sight draft of the Bank of Brazil drawn on its New York correspondent for maturities after February 7, 1938.

For the importers operating on open accounts under the regime of daily quotas, the needs will be covered by longer contracts subject to agreements between the interested parties and the Bank of Brazil.”

The Minister of Finance told me that the exchange situation continues to improve and provided there is no serious break in the cotton market he believes it will be possible to grant spot exchange for imports from the United States in March.

Please inform Department of Commerce.

CAFFERY

832.5151/1027 : Telegram

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

RIO DE JANEIRO, March 5, 1938—1 p. m.

[Received March 5—12:55 p. m.]

46. My 41, February 26, noon.<sup>11</sup> The Director of Exchange<sup>12</sup> informs me that the Bank of Brazil will allocate exchange today for maturities through February 19th. He states furthermore that exchange contracts have been granted for daily quotas of oil companies and flour mills through February 9th. Firms operating on open account have received exchange contracts for their daily quotas through January 31st.

The Director of Exchange informs me that due to difficult exchange situation he has notified the oil companies that he can give them no assurance when further exchange contracts will be granted for imports of oil which does not come from the United States.

Aranha<sup>13</sup> informs me that the Government is considering a plan under which the Government will retain 20% of available foreign

<sup>11</sup> Not printed.

<sup>12</sup> Ribas Carneiro.

<sup>13</sup> Oswaldo Aranha became Minister for Foreign Affairs on March 15.

exchange and release 80% for the free market. It is known that other plans for modification exchange control are under consideration although nothing has been definitely decided. The exchange situation of the Bank of Brazil is not improving as rapidly as was expected due to the decline in offerings of negotiable export bills to the Bank. The circulation of the above reports in business circles is having a depressing effect on import trade as the impression is gaining ground that the milreis will depreciate still further in the near future and that some restrictions will be placed upon imports.

In connection with the above it is important to note that the preference trade statistics just made available show that Brazil's favorable balance of trade decreased from \$73,325,753 in 1936 to \$17,010,581 in 1937.

Please inform Department of Commerce.

CAFFERY

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832.5151/1033

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

No. 396

RIO DE JANEIRO, March 9, 1938.

[Received March 17.]

SIR: I have the honor to refer to the Department's telegram No. 21, February 3, 8 p. m., instructing me to address a communication to the Ministry for Foreign Affairs calling attention to the undertaking of the Government of Brazil in the Brazilian Ambassador's note of February 2, 1935,<sup>14</sup> to the effect that necessary exchange will be made available for payments, when due, for all imports from the United States. On February 4th I communicated the point of view of the Department, as expressed in the telegram under reference, to the Minister for Foreign Affairs and am now in receipt of a reply dated March 3, a copy and translation of which are enclosed.<sup>15</sup>

The Department will note that the enclosed communication does not contest the validity of the undertaking of the Government of Brazil, but merely evades the issue by denying that any difficulties in obtaining exchange in Brazil exist, and by asserting that it is only a question of a small delay. However, in a recent meeting between representatives of the American Chamber of Commerce and the Minister of Finance and the Exchange Director of the Bank of Brazil, when the representatives of the Chamber of Commerce brought up the assurances given in the Brazilian Ambassador's note of February 2, 1935, the Exchange Director of the Bank replied that these assurances

<sup>14</sup> *Foreign Relations*, 1935, vol. iv, p. 340.

<sup>15</sup> Not printed.

should only be read in connection with Article VI of the Trade Agreement, and that that Article, which extends to the United States most-favored-nation treatment in exchange matters, had binding force over and above the Ambassador's letter. These remarks of the Exchange Director are of course important only as showing the slight degree of importance attached by some Brazilian officials to the undertaking of the Government of Brazil as expressed in the Brazilian Ambassador's note under reference.

I am, of course, not losing any opportunities to impress upon the Brazilian authorities the fact that the exchange availabilities of Brazil are largely derived from Brazilian exports to the United States, and that we expect that the Bank of Brazil will do everything in its power to give adequate exchange to American exporters.

The Embassy, as the Department is aware, has been constantly working in the closest cooperation with the American Chamber of Commerce, and our joint efforts have up to the present been successful in preventing a third frozen credit situation. However, the several optimistic statements of the Minister of Finance and the Exchange Director of the Bank as to the rapid improvement of the exchange position of the Bank of Brazil have not been justified up to now, and unless the position of the Bank improves substantially through the increase of Brazilian exports or the diminution of imports (neither of which factors can be clearly foreseen at the present time), I am not overly optimistic that a frozen credit situation can be delayed for very long.

This whole question is, of course, tied up with the present program of the Brazilian Government to purchase armaments abroad. As the Department is aware, this question is of primary political importance to the present regime, and I fear that every effort will be made by the Government to keep its limited supply of exchange available for the purchase of armaments in preference to normal imports of merchandise.

Of course, the exchange situation of the Bank may at any time be altered through an automatic restriction on imports, caused by a further decline in the milreis (my 46, March 5, 1 p. m.) but for some time to come I fear that our exporters will continue to experience difficulties in obtaining prompt payment for their merchandise.

Respectfully yours,

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

832.5151/1035 : Telegram

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

RIO DE JANEIRO, March 19, 1938—noon.

[Received March 19—10:55 a. m.]

62. My telegram No. 51, March 12, noon.<sup>16</sup> The Director of Exchange informs me that the Bank of Brazil will allocate exchange today for maturities through March 5th. Oil companies have received exchange contracts for their daily quotas through February 16th. Firms operating on open account have received exchange contracts for their daily quotas through February 8th and the Director of Exchange informs me that he will allocate additional exchange next week. Additional exchange contracts have matured and the Bank of Brazil has liquidated them by sight drafts on New York.

Please inform Department of Commerce.

CAFFERY

832.5151/1051 : Telegram

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

RIO DE JANEIRO, March 28, 1938—1 p. m.

[Received 1:40 p. m.]

69. My 62, March 19, noon. The Director of Exchange informs me that no contracts will be issued this week for maturities subsequent to March 5. The Bank of Brazil will issue additional exchange credits to oil companies but definite date has not been fixed as yet. The Bank of Brazil will distribute exchange contracts this week through February 15 for the daily quotas of firms operating on open account.

The Director of Exchange states that on account of heavy obligations in connection with the purchase of armaments he will recommend to the Minister of Finance that the Government make further shipment of \$500,000 in gold to New York or London for the purpose of obtaining credits with which to meet these obligations.

Please inform Department of Commerce.

CAFFERY

832.5151/1051 : Telegram

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

WASHINGTON, March 31, 1938—6 p. m.

46. The Department finds the developments reported in your 69, March 28, 1 p. m., highly disturbing. Taken in conjunction with your

<sup>16</sup> Not printed.

No. 62, March 19, noon, it would appear that there have been no exchange allocations by the Bank of Brazil since March 19 and that no contracts have been issued for maturities subsequent to March 5. Thus the past week has witnessed a deterioration in the exchange treatment of Brazilian imports from the United States instead of the realization of the expectations of the Minister of Finance, as reported in your No. 34 of February 15, 5 p. m., that it would be possible to grant spot exchange for imports from the United States in March.

The Department has tried to understand the conditions which have made it necessary for the Brazilian Government to enforce delays in the granting of exchange for the payment of American goods, even though this treatment seemed to fall short of that promised by the Brazilian Government in the exchange of letters accompanying the trade agreement.

Despite the shortening of the period of delay from 60 to 30 days on February 15, and despite hopes that the process of delay would not prove necessary indefinitely, the Department has witnessed its continuation from week to week and has feared that such continuation of delayed liquidation would confirm the practice and that any adverse change in Brazilian circumstances, even though slight, would lead to a lengthening of the delay period and that another frozen situation would arise. These fears are accentuated by the latest changes reported in your No. 69.

This concern is also shared by American interests both in the United States and in Brazil, as reported in your despatch No. 419 of March 17.<sup>17</sup> Although the Department is not willing to concur in the suggestion of the American Chamber of Commerce for Brazil transmitted with your despatch No. 419, of what is in effect a modified compensation or clearing arrangement, it does believe that it should strongly present to the Brazilian Government its dissatisfaction with the existing situation.

No doubt in order to provide the necessary dollar exchange promptly, some special effort may be necessary by the Brazilian authorities and perhaps some curtailment may be necessary in the use of Brazilian exchange resources by the Government for its requirements other than debt service and the service of funded commercial accounts.

You are therefore requested to inform the Brazilian Government of our disappointment over the change reported in your No. 69 and to state again the earnest hope and expectation of this Government that the imposition of delay on the provision of exchange will shortly be ended and to ask when such action may be expected.

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<sup>17</sup> Not printed.

832.5151/1055 : Telegram

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

RIO DE JANEIRO, April 2, 1938—noon.

[Received April 2—11:50 a. m.]

78. The Director of Exchange informs me that the Bank of Brazil will announce today the allocation of exchange contracts for maturities through March 12. Firms operating on open account have received exchange contracts for their daily quotas through February 17 and the Bank will endeavor to issue additional contracts next week for quotas through February 21. Oil companies have received exchange contracts for their daily quotas through February 23.

The Bank of Brazil continues to liquidate maturing exchange contracts by sight drafts on New York.

The Director of Exchange informs me that Aranha and the Minister of Finance will discuss the exchange situation as relating to the United States over the week-end in order to endeavor to formulate a more favorable policy within a few days.

He added that he is convinced that the Government will have to ship gold in order to meet its heavy obligations (my telegram No. 69, March 28, 1 p. m.) and to continue the allocation of exchange to meet commercial requirements.

Please inform the Department of Commerce.

CAFFERY

832.5151/1056 : Telegram

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

RIO DE JANEIRO, April 4, 1938—8 p. m.

[Received April 4—7:10 p. m.]

80. Referring to my telegram No. 46, March 5, 1 p. m., Brazil authorities are considering very early action in connection with partial liberation of exchange on the following basis:

Eighty per cent free market, 20 per cent for Government necessities. These percentages are subject to change in decree law which will be issued regulating this matter.

Please inform Department of Commerce.

CAFFERY

832.5151/1049

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

No. 109

WASHINGTON, April 5, 1938.

SIR: The Department refers to your despatch no. 428 of March 18<sup>18</sup> last transmitting a copy of a memorandum prepared by the Commercial Attaché, and copies of an exchange of correspondence between the President of the National Foreign Trade Council, Incorporated and Mr. Stephen P. Danforth, Chairman of the Exchange Committee, American Chamber of Commerce for Brazil, in regard to the exchange situation in Brazil and the possibilities of a clearing arrangement between the two countries. Reference is also made to the Department's telegram no. 46 of March 31 stating that the Department is not willing to concur in the suggestion of the American Chamber of Commerce for Brazil of what would be, in effect, a modified compensation or clearing arrangement.

In the event that the Brazilian authorities or officers of the American Chamber of Commerce for Brazil should seek your views concerning any such private clearing arrangement as mentioned in the aforementioned letter of the President of the National Foreign Trade Council, you are requested to make clear that, although the Department is unable to state in advance what its precise position would be in the matter, any measure of a private or governmental character which seeks to earmark or impound a portion of available foreign exchange for the trade of a particular country or group is necessarily inconsistent with the principles of international commerce which were agreed upon by the American nations at the Inter-American Conference for the Maintenance of Peace at Buenos Aires in 1936<sup>19</sup> and which have formed the basis of the liberal foreign trade policy of this Government.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

832.5151/1059: Telegram

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

RIO DE JANEIRO, April 7, 1938—8 a. m.

[Received 8:47 p. m.]

81. My 80, April 4, 8 p. m. The Director of Exchange of the Bank of Brazil tells me that because of a difference of opinion which has

<sup>18</sup> Not printed.<sup>19</sup> Resolution XLIV, Equality of Treatment in International Trade, *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936* (Washington, Government Printing Office, 1937), p. 240.



arisen between Aranha, Minister of Finance and himself no definite plan for the modification of the present exchange control system has as yet been worked out. However, he indicates that several plans are being given consideration.

He stated that commercial credits covering imports from all countries in arrears up to March 31 and not already covered by exchange contracts amount to approximately \$15,000,000. With a view to liquidating these credits the Government is considering a plan to ship approximately \$15,000,000 in gold bullion to New York as collateral in order to obtain corresponding dollars credits. He has asked me to inquire in strict confidence whether the Federal Reserve Bank would be willing [to] establish dollars credits against this gold and if so at what annual rate of interest. He explained that he desires to obtain this information through the Embassy rather than through normal commercial channels in order that this plan may be kept secret for the time being. The Director of Exchange would appreciate a reply at the earliest possible moment.

CAFFERY

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832.5151/1063 : Telegram

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

WASHINGTON, April 8, 1938—5 p. m.

51. Your No. 81. The Treasury has been consulted in regard to possible arrangement suggested by the Director of Exchange, and has suggested the following reply. For your information this is regarded as the most feasible and easily effected arrangement, though alternative arrangements may be possible.

“Please refer to letter from Secretary Morgenthau to Minister of Finance Souza Costa dated July 15, 1937 and delivered to latter on that date. Under terms of this letter <sup>20</sup> U. S. Treasury will through Federal Reserve Bank of New York as its fiscal agent make available dollar exchange up to 60 million dollars at annual rate of interest  $\frac{1}{2}$  of one per cent above average Federal Reserve Bank of New York rediscount rate. At present effective rate is 1% or total cost of credit one and one-half per cent per annum. Transaction which you describe is eligible under terms of letter of July 15, 1937.”

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<sup>20</sup> See Treasury Department press release No. 10-78, July 15, 1937, *infra*.

832.5151/911½

*Treasury Department Press Release No. 10-78, July 15, 1937*

The following joint statement is made by the Secretary of the Treasury and the Minister of Finance of Brazil:

The Secretary of the Treasury of the United States of America and the Minister of Finance of the United States of Brazil are entering into an agreement under which:

1. The United States undertakes to sell gold to Brazil at such times and in such amounts as the Brazilian Government may request, up to a total of \$60,000,000;
2. The United States will make dollar exchange available to the Government of Brazil or its fiscal agent, under conditions which safeguard the interests of both countries, for the purpose of promoting exchange equilibrium.

The agreement is designed to promote the development of conditions favorable to the maintenance of monetary equilibrium between the two countries and to facilitate the establishment by the United States of Brazil of a central reserve bank as a part of the program of the Brazilian Government for improving the financial structure of the Nation to meet the needs of its expanding economy.

In recent years there has occurred a notable improvement of the trade and financial position of Brazil. It is a matter of gratification both to the Secretary of the Treasury and the Finance Minister that this favorable development of the Brazilian economy makes feasible at this time this important step.

Both the Secretary of the Treasury and the Minister of Finance are pleased to have had this opportunity to extend the field of cooperation between their countries and, in accordance with their conversations, the Secretary of the Treasury stands ready to supply such technical assistance as Brazil may care to avail itself of in connection with the organization of the new bank.

832.5151/1095

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

No. 567

RIO DE JANEIRO, May 6, 1938.

[Received May 12.]

SIR: I have the honor to refer to previous correspondence concerning the three outstanding matters of interest to the Department at this juncture here in Brazil: the Brazilian foreign debt;<sup>21</sup> the exchange situation; and the German-Brazilian situation.<sup>22</sup> Needless to say, I

<sup>21</sup> See pp. 373 ff.<sup>22</sup> See pp. 382 ff.

wholeheartedly approve the present trade policies of the Department of State and I realize that the Department is not in a position to accept the suggestions of American business men in Brazil who desire the Department to bring pressure to bear on the Brazilian Government to force Brazil to grant exceptionally favorable treatment, as for instance a clearing house arrangement, in connection with trade and exchange to American commercial interests.

Needless to say also, I am wholeheartedly of the opinion that Brazil, in view of her very favorable situation in connection with commercial intercourse between the United States and Brazil, should make a determined effort to supply exchange for American commercial requirements. For the same reason she should make a determined effort to resume payments on her foreign debt. Also, she should make a determined effort to correct the unfavorable situation created by the existing compensation mark arrangement with Germany.

However, I deem it expedient at this point to invite the Department's attention to the fact that the Brazilian authorities look on these matters with very different eyes. As Brazil sees it, the cold facts why she is not making any payment on her debts and why she is not granting spot exchange to importers to cover payments of American merchandize can be explained as a simple question of arithmetic. Brazil's favorable trade balance has shrunk from \$73,325,753 in 1936 to \$17,010,584 in 1937. Her resources, both to make payments on debts and to grant exchange against imports, consist purely and simply of her trade balance. Under the Aranha Plan<sup>23</sup> Brazil was committed to an external debt. How then, she says, can she possibly continue servicing her debts with only a trade balance of \$17,010,584. Furthermore, governmental requirements for exchange have been increased since last November by about \$35,000,000 (apart from the recently signed contract for munitions in Germany to be paid in compensation marks) for payments which must infallibly be made at regular intervals during the next several years to meet contracts which Brazil has already let for the purchase of nine destroyers (six to be built in England, the other three in Brazil from material purchased in the United States), plus the large number of airplanes contracted for in the United States. A comparison of the annual service on these armament contracts compared again with Brazil's trade balance of \$17,010,584 shows the impossibility of having exchange sufficient to meet normal commercial requirements. Putting the question in another way, should Brazil cancel all of her contracts for the purchase of armament, she would still be unable to continue

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<sup>23</sup> See footnote 52, p. 374.

the full service of the debts under the Aranha Plan. Furthermore, she still would not have sufficient exchange to meet all of her normal commercial requirements. Quite naturally, the exchange situation is variable and might be changed considerably should Brazil's exports rise or imports fall to any considerable amount.

As regards the Brazilian-German situation, pure arithmetic no longer applies as much as it does to the other two issues. From a purely selfish Brazilian point of view the former compensation arrangement with Germany, which is still practically in effect, is highly advantageous. Under it, the Germans have increased their purchases of cotton from 17,022 tons in 1934 to 84,746 tons in 1937. The compensation marks obtained by Brazil for the purchase of this cotton can be used in one way only: the purchase of merchandize from Germany. The purchase of merchandize from Germany on the other hand means that the Brazilian consumer is able to buy most articles at least 24 per cent lower than he would if the compensation mark was not used and if he had to make payment in Reichsmarks. The Brazilian market, as well as most other Latin-American markets, is, as the Department is fully aware, a price market. In other words, it is price rather than quality which counts. The cheaper the goods the more desirable they are from the Brazilian standpoint irrespective (within reasonable limits of course) of their quality. Boiling down this situation still further, it simply means that the Brazilians are completely happy to do business with Germany on a compensation basis and have not the slightest desire to give up this trade unless they are forced to do so. As long as it is money in their pocket, our arguments from the long range point of view of dislocation of markets, free triangular trade versus bilateral trade, removal of trade barriers, et cetera, have a purely abstract significance which carry but little appeal to those directing the policies of Brazil today.

Needless to say also, were we to adopt retaliatory measures envisaging definite economic pressure, Brazil would change her policy overnight; would scrap the compensation agreement with Germany; cancel her contracts for armaments; grant exchange for American merchandize up to the limit of her ability, and would make some sort of an effort to give a partial service at least on Brazilian obligations held in the United States. Failing, however, to feel any economic pressure from the United States, Brazil quite frankly considers all of the many arguments which we have put forth throughout the past several years as "pure literature".

(Referring to the armaments now being purchased by the Brazilian military and naval authorities, it is a fact that, having in mind the nationalistic tendencies now prevalent, the wisdom of those purchases is not questioned in Brazil. It is a subject on which there is probably

near unanimity of opinion. The Brazilian people as a whole consider them necessary.)

Again, needless to say, notwithstanding the conditions described above, I am continuing day by day in my endeavors to persuade the Brazilian authorities to accord satisfactory treatment to American commercial interests: in connection with the exchange situation, I have been able to prevent, thus far, a new "congelado" and have hopes of receiving definitely more favorable treatment for American interests within a short time; in connection with the compensation mark business, the Minister for Foreign Affairs promised me only yesterday that he would sincerely attempt to reach an agreement, satisfactory to us, with Germany within the next few days; in connection with the debt matter, the situation is more difficult: however, it is my intention to see President Vargas in that connection within the next few days when I shall endeavor to persuade him to take a more favorable attitude than he has hitherto taken in regard to Brazil's foreign obligations.

Respectfully yours,

JEFFERSON CAFFERY

832.5151/1095

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

No. 144

WASHINGTON, June 2, 1938.

SIR: The Department has read with interest your despatch no. 567 of May 6 last in which you refer to three of the important questions in the existing relations between this country and Brazil, namely, the Brazilian foreign debt, the exchange situation and Brazilian-German trade practices.

It is noted in the concluding paragraph of the despatch aforementioned that notwithstanding adverse conditions enumerated in preceding paragraphs you are continuing in your endeavors to persuade the Brazilian authorities to accord more satisfactory treatment to the interests of this country. The Department desires to commend you for these efforts, which appear already to have produced certain definite results.

With reference to your statement that should this Government adopt retaliatory measures envisaging definite economic pressure the Brazilian Government would immediately accord the interests of the United States more favorable treatment but that failing economic pressure Brazil frankly does not consider seriously the various arguments advanced by this Government in support of its liberal trade policy, the Department has assumed that the Brazilian Government has been making earnest efforts to satisfy this Government in regard to

the limitation of compensation trade, the discontinuance of German subsidies on exports to Brazil, and the granting of exchange for imports from the United States. I may state for your strictly confidential information that the present Brazilian Ambassador remarked at the Department shortly after his arrival in Washington that his Government did not intend to sign a new compensation agreement with Germany. It would seem evident from your despatch no. 525 of April 20, 1938 and from the enclosures of your despatches nos. 510 and 546 of April 13 and April 26, 1938,<sup>24</sup> respectively, that the Brazilian Government has not been complying with the requests of the German Government in the matter of compensation trade, as evidenced by the fact that Germany is withholding purchases of Brazilian cotton. Encouragement, too, has been found in your telegram no. 114 of May 17<sup>25</sup> reporting that the Bank of Brazil was again reducing the discount of compensation marks, as well as in your telegram no. 116 of May 19<sup>25</sup> regarding the exchange situation.

On pages 2 and 3 of your despatch of May 6, it is noted, you outline reasons why the Brazilian Government does not consider that it can reasonably be expected at this time to accord the interests of this country more favorable nonpreferential treatment, and you first cite in this connection the fact that Brazil's active trade balance was reduced to approximately \$17,000,000 in 1937. It is assumed that the Embassy does not accept this consideration as constituting a valid reason why the Brazilian Government should not grant without delays exchange for the importation of goods from the United States or why it should not initiate conversations with the representatives of the American holders of Brazilian governmental bonds. The seventeen million dollar figure resulting from Brazilian official statistics is based, of course, upon valuation of German goods in the Reichmarks, instead of compensation marks, with the result that the country's true trade balance in 1937 was probably more than sixteen million dollars larger (reference is made to pages 5-7 of the report of the Consulate General at Rio de Janeiro of April 14, 1938 entitled "German Compensation Trade with Brazil in 1937").<sup>25</sup> Moreover, it is not seen how the 1937 balance of trade can be viewed as a criterion of the country's capacity to make debt payments in 1938. You remark that the exchange situation might be changed considerably should Brazil's exports rise or imports fall to any considerable extent. The reverse is, of course, also true. The trade balance of 1937 was produced under exchange parties that do not necessarily have any close relationship to the parties

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<sup>24</sup> None printed.

<sup>25</sup> Not printed.

that are being established this year. You have without doubt noticed the articles in the *Economist* (London) of March 12, 1938, which discussed the trade balance and reached a reasoned estimate of £59,500,000 for Brazil's exports in 1938, after allowing for the effects of the change in coffee policy.

It would appear for the foregoing reasons that the Brazilian Government cannot legitimately defend its failure to provide debt service by a mere reference to the country's trade balance in 1937. It would seem more pertinent, with respect to the bearing of Brazil's 1937 trade figures upon capacity to make debt payments, to observe that the country's exports last year amounted to approximately \$347,600,000 as compared with about \$286,600,000 in 1934, the first year of the operation of the "Aranha plan". The *Economist* article makes this comparison and states that "there is no room for doubt that Brazil, if she were willing, could before long resume the Aranha level of payments." Analysis of this character has produced outside of Brazil a predominance of opinions opposed to those that you set forth as prevalent in Brazil.

On page 3 of your despatch you refer to German purchases of cotton in Brazil amounting in 1937 to 84,746 tons and comment that the compensation marks obtained by Brazil for these purchases could be utilized only for the purchase of merchandise from Germany. This conclusion would appear to be valid in so far as it pertains to the employment of the compensation marks involved, but as you are undoubtedly aware, the communications exchanged between the Brazilian and German Governments on June 8, 1936 limited the quantity of Brazilian cotton that could be purchased in compensated currency to 62,000 tons per year.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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832.5151/1113: Telegram

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

RIO DE JANEIRO, June 3, 1938—2 p. m.

[Received June 3—2 p. m.]

135. My 116, May 19, 7 p. m.<sup>26</sup> I have been informed confidentially by the Foreign Office today that several European nations are bringing pressure to bear in order to receive treatment similar to that accorded to drafts covering merchandise of United States origin.

CAFFERY

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<sup>26</sup> Not printed.

832.5151/1130: Telegram

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

RIO DE JANEIRO, June 22, 1938—9 p. m.

[Received 11:04 p. m.]

147. My 143 of June 15, noon.<sup>28</sup> The Bank of Brazil today suspended all purchases of compensation marks. The Bank, however, will continue to sell compensation marks. The Director of Exchange states that this policy will remain in force until the Bank's over-bought position in compensation marks is liquidated. This decision resulted from a report from the Bank's Bahia branch that German firms were offering exceptionally high prices for cocoa for the purpose of preventing the Bank from reducing its over-bought position in compensation marks which is now 22,000,000. The Director states that the German Embassy and German banks have registered strong protests. The Director further informs me that he will recommend a license system for imports from Germany.

Please inform Department of Commerce.

CAFFERY

832.5151/1140: Telegram

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

WASHINGTON, July 5, 1938—11 a. m.

83. Eugene P. Thomas, American member of the New York Mixed American-Brazilian Committee,<sup>29</sup> has discussed with the Department the possibility of a joint meeting of the New York and Rio de Janeiro Committees in Rio de Janeiro for the purpose of discussing problems of foreign exchange. The Brazilian member, Mr. Penteadó, is sailing from New York today, and Thomas suggests that it might be desirable for the joint meeting to be held while Ambassador Brandão<sup>30</sup> and Penteadó are in Rio.

It is understood that such a meeting would be held only on invitation from the Brazilian Government. The Department does not know what steps have been taken to assure such an invitation being issued, but if you have occasion to discuss this with the Brazilian Government, you should recall that it was the hope of the two Governments in establishing these Committees that they might be of use in bringing problems and suggestions to the attention of the Governments, but you should stress the understanding reached at the time they were

<sup>28</sup> Not printed.

<sup>29</sup> See pp. 397 ff.

<sup>30</sup> Mario de Pimentel Brandão.



established that the Committees were to act in a purely private capacity and that while this Government hopes that the Committees may perform a useful function, it is not to be interpreted as having suggested this meeting or as being in any way committed to any of the suggestions which the American members might make.

Please cable any views or comments which you may have to make upon such a proposed meeting.

HULL

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832.5151/1141 : Telegram

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

RIO DE JANEIRO, July 7, 1938—noon.

[Received 1 p. m.]

162. Department's telegram No. 83, July 5, 11 a. m. I see no possible objection to a joint meeting of the New York and Rio de Janeiro Committees in Rio de Janeiro. However, it is the opinion of the American member of the Rio de Janeiro Committee that without the active participation of the Embassy nothing could be accomplished by the Committee. The Embassy attempted to persuade the Brazilian authorities to treat on matters of exchange with the local American Chamber of Commerce, but the Minister of Finance and the Bank of Brazil insisted on dealing with the Embassy; furthermore it has been possible to secure the improved treatment on exchange for our exporters only through almost daily negotiations between the Embassy and the Brazilian authorities.

It is the intention of Ambassador Brandão to leave for the United States on July 15th next.

CAFFERY

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832.5151/1146 : Telegram

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

RIO DE JANEIRO, July 14, 1938—3 p. m.

[Received July 14—2:45 p. m.]

170. Department's telegram No. 86, July 13, 2 p. m.<sup>21</sup> There has been no change in the local situation since my telegram No. 147, June 22, 9 p. m.

As the Department is aware our recently improved trade situation here in relation to Germany's is the result of the Embassy's informal representations. However, Germany is obviously in a position to

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<sup>21</sup> Not printed; it asked for comment on a report in the *New York Times* to the effect that an announcement had been made in Berlin of the suspension of German purchases from Brazil (832.5151/1145a).

be very disagreeable to Brazil and if she desists altogether from buying Brazilian coffee and cotton can force Brazil to change her policies. On the other hand it is my opinion that Germany does not desire to lose her market here and is playing for position in publishing propaganda of the kind mentioned.

CAFFERY

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832.5151/1146 : Telegram

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

WASHINGTON, July 16, 1938—5 p. m.

89. Your telegram no. 170, July 14, 3 p. m. This matter is causing widespread comment and speculation in this country. It is assumed that the first sentence of your telegram does not mean that the news of the recent German action had not reached Brazil. Please telegraph fully the reaction in the Brazilian press and official and business circles, and indicate what action the Brazilian Government appears to be contemplating in the way of either retaliation or coming to an agreement with Germany.

The American Embassy at Berlin telegraphed yesterday that the Economic Section of the German Foreign Office, as well as the Reichsbank and the Brazilian Embassy, expressed the opinion that the difficulties would not be of long duration. The Brazilian Embassy appeared to believe that as a result of negotiations in Rio de Janeiro the purchase of compensation marks by the Bank of Brazil and normal trade relations between the two countries would soon be resumed. The Reichsbank was of the opinion that political considerations may have played a part in the suspension of purchases of compensation marks.

HULL

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832.5151/1154 : Telegram

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

RIO DE JANEIRO, July 18, 1938—4 p. m.

[Received 9:11 p. m.]

173. The Brazilian authorities and business circles believe that complete suspension of German purchases from Brazil exists only in view of the action of the Bank of Brazil reported in my telegram 147, June 22, 9 p. m. and do not take seriously the article from Berlin by Tolischus; they have not heard of any retaliatory German action. The local press has not commented. The German Ambassador here continues to protest against the Bank's action and to insist upon a re-

sumption of negotiations for a new trade agreement with Brazil. As the Department is aware, it has always been the intention of the Brazilian Foreign Office to resume those negotiations, but Aranha refuses to negotiate with the present German Ambassador here (the Ambassador has announced his departure for Germany on leave from Rio de Janeiro on August 6th next).

The over-bought position of the Bank in compensation marks has been reduced from a maximum of 35,000,000 to around 5,000,000 therefore the Bank will probably soon allow resumption of purchases of compensation marks of limited quantities of certain Brazilian products (especially in view of the obvious dissatisfaction of the exporters of cotton, cocoa, tobacco, citrus fruits, meats, coffee with the present policy of the Bank of Brazil).

CAFFERY

832.5151/1157: Telegram

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

RIO DE JANEIRO, July 22, 1938—1 p. m.

[Received 2:04 p. m.]

177. My 173, July 18, 4 p. m., 147, June 22, 9 p. m., and despatch No. 772, July 18th.<sup>32</sup> The Bank of Brazil has resumed the purchase of German compensation marks for all products except cotton and cocoa. The buying rate is milreis 5.600. This decision is intended to assist coffee, tobacco, lumber and fruit exporters. Germany pays good prices for types of coffee not in demand in the United States. Coffee brokers state that this development will have a firming effect on Brazilian coffee prices here and abroad.

The selling price for the compensation mark has been advanced to milreis 5.950. American products competitive with German products have benefited noticeably from the steady increase in the compensation mark and importers report a continuation of the improvement in the demand for American products.

Please inform Department of Commerce.

CAFFERY

832.5151/1177: Telegram

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

RIO DE JANEIRO, August 25, 1938—3 p. m.

[Received 6:15 p. m.]

203. Referring to my telegram No. 81, April 7, 8 p. m., and Department's 51, April 8, 5 p. m., I am in receipt of the following letter

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<sup>32</sup> Despatch not printed.

dated August 24 signed by the President and the Exchange Director of the Bank of Brazil:

"In accordance with the formal authorization of His Excellency the Minister of Finance, we wish to request that through your good offices there be initiated the necessary arrangements between the Bank of Brazil, as executive organ of the Government, and the Federal Reserve Bank, as fiscal agent of the Government of the United States of America, to constitute a gold reserve in the United States with a corresponding credit concession to the Brazilian Government.

The reserves of metallic gold have been heretofore accumulated in the country, in conformity with decree No. 23535 of December 4, 1933.

By a confidential decree, the Brazilian Government has ruled that the excess of 28 tons be remitted abroad, at the discretion of His Excellency the Minister of Finance.

The Bank of Brazil wishes, therefore, to submit to Your Excellency the final plan to have these shipments made in such a way as to constitute in the Federal Reserve Bank a special fund in metallic gold, for the free use of the Brazilian Government, the latter to avail itself of the offer submitted in the letter of July 15, 1937, from His Excellency Secretary Morgenthau to His Excellency Minister Arthur de Costa.

It is the intention of the Bank of Brazil, along general lines, to open with the Federal Reserve Bank an account guaranteed by the gold in deposit, the Federal Reserve Bank to grant to the Bank of Brazil, for the period of 1 year, a credit renewable with an advance notice of 30 days, in order that the latter may obtain a liquid fund with which to comply with the attributions assigned to it by decree No. 97 December 12 [23], 1937.<sup>33</sup>

The interest on the amounts drawn from this account, which the above mentioned letter sets at one-half of one percent per annum above the average rediscount rate of the Reserve Bank during the immediately preceding month, will be paid every 6 months.

We would like to request that when you transmit the initial terms of our proposal, serving as an intermediary for these arrangements, that you obtain not only the opinion of the Federal Reserve Bank regarding their feasibility but also the details that must be considered for their execution.

We would also appreciate it if you would request the Federal Reserve Bank to express an opinion regarding the possibility of having the gold which is shipped refined in New York for account of the Brazilian Government, and also as to what would be the cost of such work."

The Exchange Director informs me that if the plan set out in this letter is realized it will ease the strain upon the exchange resources of the Bank and should be beneficial to American trade by making possible to reduce present delays in the allocation of exchange. The Bank of Brazil requests an answer by telegraph.

CAFFERY

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<sup>33</sup> For translation, see telegram No. 194, December 24, 1937, from the Ambassador in Brazil, p. 330.

832.5151/1184 : Telegram

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

WASHINGTON, September 3, 1938—4 p. m.

102. Your 203, August 25, 3 p. m. The following strictly confidential communication is telegraphed you at the request of the Federal Reserve Bank of New York for delivery to the Bank of Brazil:

“September 2, 1938.

Banco do Brasil,  
Rio de Janeiro, Brazil.

Dear Sirs: We refer to your letter dated August 24, 1938, addressed to the American Ambassador at Rio de Janeiro.

We have been authorized by the Secretary of the Treasury of the United States to advise you as follows:

We, as fiscal agent of the United States, are prepared to receive gold sent to us from abroad by you or your government and to hold the same under earmark and deal therewith as provided in the arrangement contained in the letter dated July 15, 1937, from the Secretary of the Treasury of the United States to the Minister of Finance of Brazil, as supplemented by this letter.

Item (4) of said letter of July 15, 1937, provided that milreis shall be repurchased ‘at such times as may be mutually agreed upon when such milreis are purchased from you by us, . . .’<sup>34</sup> Until further notice we are prepared to agree that any or all milreis purchased by us from you under such arrangement shall be repurchased (in United States dollars) by you from us no later than one year after the date of the purchase from you by us, at the same rate or rates of exchange at which such milreis shall have been purchased from you by us. If prior to the expiration of such one-year period you request that such date be extended for a further period of time, consideration will be given to such request.

We also agree with your request to modify the last sentence of item (4) of said letter of July 15, 1937, to read as follows:

‘In the absence of any such request milreis in the amount of such accrued interest shall be purchased (in United States dollars) by you from us at said rate or rates of exchange at the end of each successive six-month period from and after the date of the purchase of the milreis by us from you and upon the termination of this arrangement.’

We assume that your designation as fiscal agent of the United States of Brazil to enter into the arrangement contemplated by the letter of July 15, 1937, as supplemented and modified herein, will be confirmed to our Secretary of the Treasury or to us by your Government.

We will use our best efforts to make arrangements for refining on arrival for account of the Brazilian Government, such gold as may be shipped. Before we could obtain an estimate of the cost of refining, we would need to know whether the gold consists of coins or bars and the approximate fineness thereof, and, if bars, the approximate weight of each bar.

Very truly yours,

L. W. Knoke,  
Vice President.”

HULL

<sup>34</sup> Omission indicated in the original.

832.516/282 : Telegram

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

RIO DE JANEIRO, September 6, 1938—4 p. m.

[Received 4:25 p. m.]

211. The President of the Export-Import Bank has arrived at a purely unofficial understanding with the Bank of Brazil under which the Bank has agreed to guarantee payment of credits for the sale of American products to the Brazilian Government. This represents an entirely new practice of the Bank of Brazil which has consistently in the past denied extending such facilities. This plan covers only purchases made in the United States and is restricted to those which are in part at least financed by the Export-Import Bank.

The Bank of Brazil informs me that in view of the European situation it is planning to dispose of British bonds to the nominal value of 1,000,000 pounds and to buy a corresponding amount of United States Government bonds.

The Bank informs me further that it is seriously considering severing relations with the British banking firm of Rothschild with which it has been doing business for 30 years. The Bank says it resents what it terms the highhanded attitude of Rothschilds toward Brazil and desires to establish closer connections with American banks.

Please inform Department of Commerce.

CAFFERY

832.51 Bank of Brazil/1 : Telegram

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

RIO DE JANEIRO, September 21, 1938—1 p. m.

[Received 2:50 p. m.]

219. During recent visit of Pierson, President of the Export-Import Bank, he examined at close range the effect of the exchange difficulties of the Bank of Brazil upon American trade. The Bank at that time indicated that if it were able to obtain a credit from the Export-Import Bank it would be willing to guarantee that it would utilize the exchange derived therefrom exclusively for American imports and would be able to guarantee immediate exchange cover for all merchandise of American origin.

I am now in receipt of the following telegram from Pierson:

"I am willing recommend Export-Import Bank credit to Banco do Brasil to be utilized exclusively to provide exchange American imports. Believe should be limited to 12 months or at most 18 and payable in regular installments. Would want unconditional guaranty of Banco do Brasil and perhaps part collateral if amount is large. If

Ambassador approves I shall cable Export-Import Bank to discuss with State and Treasury. Am convinced after visit to Argentina and Uruguay that this approach is best possible method to prevent further loss of business to European countries. Leave Buenos Aires tomorrow for Santiago."

I have informed Pierson that I have no objection to the Export-Import Bank discussing this matter with the Departments of State and Treasury.

The exchange situation of the Bank of Brazil is far from satisfactory and I am convinced that unless the Bank receives some assistance it will be forced to adopt measures tending further to restrict imports.

Please inform the Department of Commerce.

CAFFERY

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832.51 Bank of Brazil/1 : Telegram

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

WASHINGTON, September 24, 1938—1 p. m.

112. Your 211, September 6, and 219, September 21. The reports transmitted by Pierson in regard to his discussions of possible credits from the Export-Import Bank to the Bank of Brazil have been submitted to the interested officials of the Government in accordance with his request. The implications of these proposals from the standpoint of broader commercial policy will have to be given careful consideration, in any case. Pending submission by him of concretely defined proposals it is difficult to see how the Bank could make decision.

In the meanwhile, the Treasury is concerned lest confusion arise as between proposals which Pierson has been discussing and those which have been under consideration as between the Bank of Brazil and the Federal Reserve Bank as agents of the United States Treasury, the latest phases of which are contained in your 203 of August 25 and the Department's 102 of September 3. The Department shares this sense of possible confusion. The Brazilian authorities will no doubt be aware that the transaction discussed between the Bank of Brazil and the Treasury could be executed more simply and expeditiously than any other. Has any reply been received from the Brazilian authorities to the Federal Reserve letter contained in our 102? Please inform the Bank of Brazil that if they wished to send a representative to this country to conclude this arrangement, he would be assured of the immediate attention of both the Federal Reserve and the Treasury.

HULL

832.51 Bank of Brazil/2 : Telegram

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

RIO DE JANEIRO, September 26, 1938—noon.

[Received 12:25 p. m.]

223. Department's No. 112, September 24, 1 p. m. In my opinion the "possible confusion" mentioned by the Department does not exist in view of the fact that the proposed agreement between the Bank of Brazil and the Federal Reserve Bank is entirely independent of Pierson's plan and should be settled very [soon?]. On the other hand Pierson's plan cannot obviously be acted upon until after his return to Washington and thorough discussion with the interested Government departments.

I received a reply dated September 21 from the Bank of Brazil to the Federal Reserve letter contained in the Department's 102<sup>35</sup> and which was transmitted to the Department in my airmail despatch No. 920 of September 23.<sup>36</sup> The reply however consists of mere acknowledgment of receipt of the communication from the Federal Reserve Bank and states that the question is being studied by Brazilian authorities.

The Director of Exchange informs me that he has already drafted a tentative plan in accordance with the suggestions of the Federal Reserve Bank and which probably will be passed upon this week by the Minister of Finance.

CAFFERY

832.5151/1213 : Telegram

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

RIO DE JANEIRO, October 14, 1938—5 p. m.

[Received October 14—5 p. m.]

242. Aranha told me today confidentially that in his opinion the only way to solve the present exchange difficulties is to remove all exchange restrictions. If this were done, he said, he would insist that the German mark be treated in the same fashion that other currencies are treated. He said that the matter is being given serious consideration in Government circles but admitted that it is meeting with considerable opposition.

Please inform Department of Commerce.

CAFFERY

<sup>35</sup> September 3, 4 p. m., p. 355.

<sup>36</sup> Not printed.



832.5151/1232

*Memorandum of Conversation, by Mr. Leroy D. Stinebower of the  
Office of the Adviser on International Economic Affairs*

[WASHINGTON,] October 24, 1938.

Participants: Mr. Eugene P. Thomas, Mr. Heman Greenwood and  
Mr. Micou, of the National Foreign Trade Council,  
Inc.

Mr. Sayre,<sup>37</sup> Mr. Briggs,<sup>38</sup> Mr. Woodward,<sup>39</sup> Mr. Col-  
lado,<sup>40</sup> Mr. Deimel, <sup>41</sup> Mr. Stinebower

Mr. Thomas and his associates called by appointment to discuss with Mr. Sayre and other interested officers of the Department the question of what might be done to improve the Brazilian exchange situation as it bears upon payments for imports from the United States. After briefly summarizing the exchange situation in Brazil, as it is known to the Department, Mr. Thomas went on to say that there had in the past been a very considerable degree of support among exporters for the trade agreements program of this Government, in large part as a consequence of the activities of the National Foreign Trade Council in organizing and directing this support. There was observable, however, a decided weakness in the enthusiasm of exporters for the program, and Mr. Thomas feared that this weakening would be accentuated if situations like that now prevailing in Brazil were to be allowed to continue without interference by this Government. Specifically, exporters were of the opinion that in the face of bilateral arrangements negotiated by Germany and other countries, including the United Kingdom, the least that this Government could do would be to insist upon the full observance of all commitments made to it by foreign countries. In the case of Brazil this would mean the insistence (a) that full exchange coverage for imports be granted as promised in the note of February 2, 1935 annexed to the agreement and (b) that we should at least get equality of treatment on the Brazilian market. With reference to the latter, he thought we were not getting equality of treatment so long as German imports were being promptly paid as a result of the German compensation mark system and as long as prompt payment was being made for a large volume of armament purchases by the Brazilian Government from the United Kingdom and elsewhere.

Mr. Sayre replied that there was very real appreciation of the support of exporters for the trade agreements program and for the work

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<sup>37</sup> Francis B. Sayre, Assistant Secretary of State.

<sup>38</sup> Ellis O. Briggs, Assistant Chief, Division of the American Republics.

<sup>39</sup> Apparently Robert F. Woodward, former Vice Consul at Rio de Janeiro, on temporary duty in the Department.

<sup>40</sup> Emilio G. Collado of the Division of the American Republics.

<sup>41</sup> Henry L. Deimel, Jr., Assistant Chief, Division of Trade Agreements.

of Mr. Thomas and his organization in this connection. It seemed to him, however, that there were two types of commercial policy in the world, one the American system and the other the German system; that American exporters had to choose which kind they preferred; that if the United States went in for a system of bilateral balancing, barter arrangements and all the other aspects of the German system, this would involve for American exporters all of the disadvantages of that system, including a complete regimentation of all aspects of economic life and trade in this country. While there was a direct conflict between these two systems, which were battling for supremacy, he could not agree with Mr. Thomas and his associates that the events connected with Munich<sup>42</sup> had completely changed the face of economic relationships or necessitated a reversal of our commercial policies. The conclusion of the pending trade agreement with the United Kingdom, which he believed would be signed within the next few weeks, would constitute a major event in the support of the liberal type of trade policy.

Nevertheless, Mr. Sayre went on, it was necessary to face the problems created for American trade by the other system with a view to determining what could be done to meet them without surrendering the principles upon which we have been conducting our trade relations. For this reason he would be very glad to consider any suggestions that Mr. Thomas had to make.

Mr. Thomas referred to previous discussions and correspondence which he and other American business interests had had with the Brazilian Ambassador and with other officials of the Brazilian Government with a view to working out some arrangement between the Bank of Brazil and New York banks by which the Brazilian Government would make available full coverage for all imports from the United States without any delay. In all of these attempts, however, they always came up against the fact that they could not get such arrangements without the positive assistance of the State Department, stating that such an arrangement was desired. Mr. Thomas thought that this was not an unreasonable demand to make upon Brazil in view of the expressed willingness of the latter Government in 1934 to grant a substantial portion of its exchange payments for imports from the United States, in view of the commitment of the Brazilian Government in the Ambassador's note of February 2, 1935, and in view of the promise in the unfreezing agreements of 1933 and 1936 that by accepting the unfreezing notes American exporters would not have to be faced with any further delays in payments for their exports. Mr. Greenwood expressed the belief that the request for such an arrangement would not be a request for preferential treatment but

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<sup>42</sup> See vol. I, pp. 657 ff.

only for equality of treatment (he was not very clear as to how he reached this conclusion in as much as he specifically stated that he did not have merely Germany in mind) and for the observance of previous commitments of the Brazilian Government. Mr. Sayre stated that this kind of an arrangement did in effect constitute a request for preferential treatment as compared with the treatment received by countries other than Germany or Italy and that we could not well continue to attack the system of preferential arrangements after we had once negotiated one ourselves.

Mr. Thomas further suggested the possibility of a loan, perhaps through the Export-Import Bank, by which the slate might once again be wiped clean so far as the exporters themselves were concerned, providing there could be some assurances that in the future no delays would be allowed to arise. Mr. Sayre again stated that he was quite ready to examine all possibilities, that he had not yet had an opportunity to discuss the Brazilian situation with Mr. Pierson, who had just returned, but that he would be very glad to do so as soon as possible, and if there seemed to be any promising action which could be worked out along these lines, to get in touch with Mr. Thomas again.

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832.5151/1237 : Telegram

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

RIO DE JANEIRO, November 22, 1938—10 a. m.

[Received 10:35 p. m.]

269. A United Press despatch, dated yesterday, from New York states that Penteadó, Financial Attaché to the Brazilian Embassy, has been invited to confer with the Secretary of the Treasury today. The despatch speculates that the conference will deal with the remittance of exchange for exports of American merchandise to Brazil.

I would greatly appreciate any information the Department can furnish regarding this matter.

SCOTTEN

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611.3231/1294a : Telegram

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

WASHINGTON, November 24, 1938—noon.

132. The Department has become increasingly concerned over the administration by Brazil of its exchange control system and the failure of American exporters to obtain the treatment to which they are clearly entitled under the terms of existing agreements between this Government and the Brazilian Government. The Department has re-

frained over a long period of months from taking action in the earnest hope that a solution would be reached, but such solution unfortunately appears no closer now than it did a year ago, and in the meantime our legitimate export trade has continued to suffer. As a result the Dept. finds itself in a position which is becoming increasingly difficult to defend. I feel that the time has now come when we should take up this matter unequivocally with the Brazilian Government. I should appreciate your views as to the substance of the following note and the advisability of presenting it to the Brazilian Minister of Foreign Affairs.

[Here follows text of proposed note identical with enclosure to instruction No. 251, December 10, printed on page 368.]

HULL

832.5151/1237: Telegram

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

WASHINGTON, November 25, 1938—5 p. m.

135. Your 269, November 22, 10 a. m. Having received a copy of your telegram the Treasury Department advises that the Secretary of the Treasury asked Penteado to convey to Sousa Costa a message to the effect that on the occasion of Sousa Costa's visit they worked out the existing gold credit arrangement; it is the desire of the United States Treasury to work very closely with the Brazilian Treasury; the United States Treasury has been making some preliminary studies looking to further cooperation in this field and Secretary of the Treasury Morgenthau wished to know if Sousa Costa had any suggestions as to further steps which might be taken.

HULL

611.3231/1295: Telegram

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

RIO DE JANEIRO, November 25, 1938—5 p. m.

[Received 7:05 p. m.]

274. Department 132, November 24, noon. I feel that before presenting any note to the Brazilian Government regarding the exchange situation the Department should consider the following factors.

The Bank of Brazil does not at present possess adequate exchange of international acceptance to carry out the provisions of Aranha's letter of February 2, 1935 for the following reasons:

(a) The trade balance for the first 8 months of 1938 is slightly adverse to Brazil as against traditional favorable balances.

(b) The servicing by the Bank of Brazil of the notes of its various unfreezing arrangements.

(c) There is at present an unusually heavy demand for exchange by the Government due to rearmament program.

(d) The receipt of exchange by the Bank from the exports of coffee is delayed owing to the fact that most of the coffee sales are in futures ranging from 3 months to a year.

Attention is called to the fact that Brazil has not only guaranteed most-favored-nation treatment to the United States but under its agreements with other nations it must automatically extend the same treatment to them and with the current serious shortage of exchange of international acceptance it would be impossible to grant spot exchange to all.

Although it is true that German exporters are now receiving slightly preferential treatment over exporters from the United States, the reason is inherent in the compensation system itself. According to the Director of Exchange the Bank has a long position in compensation mark credits and, in keeping with sound banking, the bank desires to keep the position reduced to a safe level which is difficult owing to skillful trade tactics on the part of Germany.

In spite of the above, immediate and adequate exchange for American exports could undoubtedly be obtained if credits are extended to the Bank of Brazil by the Export-Import Bank (see Embassy's telegram No. 219, September 21, 1 p. m.). I feel that until this matter is thoroughly explored and a decision reached it is premature to make representations.

The danger of our insisting at this time upon a strict compliance with the Aranha letter of February 2, 1935 is that Brazil might comply but counter with restrictive measures on importations, already contemplated in President Vargas' statement of November 10 (see Embassy's telegram No. 257, November 10, 1 p. m.<sup>43</sup>).

SCOTTEN

832.5151/1260½

*The Brazilian Minister for Finance (Souza Costa) to the American Secretary of the Treasury (Morgenthau)*<sup>44</sup>

[Translation]

[RIO DE JANEIRO,] December 2, 1938.

MY DEAR MR. MORGENTHAU: Mr. Eurico Penteado has sent me, through your Foreign Office, the message you were kind enough to

<sup>43</sup> Not printed.

<sup>44</sup> Transmitted on December 19 to the Acting Secretary of State by Wayne C. Taylor, Assistant Secretary of the Treasury.

address to me and my Government, on behalf of the American Government.<sup>45</sup>

2. First of all, I wish to renew the expression of my appreciation which I endeavoured to convey in my telegram after having duly informed my President.

3. The cooperation between our two countries has been hindered by the difficulty which Brazil, due to her economy and finances and in spite of her Government's desire to do so, has found to adjust itself to the rules that the American economy and finances have imposed to the life of your country.

4. The assistance that your country has offered to mine, brings nearer the fulfillment of my Government's wish for a more effective and real communion of interests and a closer solidarity between the United States and Brazil.

5. When I visited the United States, in the summer of 1937, we considered the possibility of making a gold deposit with the Federal Reserve Bank, utilizing the currency available in the foreign market and carrying out credit operations on the basis of that deposit, as agreed.

6. The world's economic conditions, on the second half of last year, which influenced the Brazilian economy, and became worse as a consequence of the exchange policy followed during my absence, prevented the completion of our program and compelled us, in order to avoid greater losses, to reestablish the exchange control.

7. In November 1937, due to the attitude of the various producing countries, we modified our coffee policy, reducing, in this manner, the surplus of our trade balance to the extent of the difference of the gold price. This compelled us to temporarily suspend the payments on our foreign debts.

8. Since last May, this exchange policy has shown its results and, from then on, we have had surpluses in our trade balance, notwithstanding the fact that the figures given in the statistics, during periods of exchange control, always shows results below the reality, as result of fraud, which cannot be entirely avoided no matter how severe the control may be.

9. The facts show that we are approaching more and more the point where we will be able to reestablish the free exchange, although for this we might have to wait a little longer than desirable. To hasten such a solution, at the present time, would bring a fall on the value of the milreis and a still larger reduction of the purchasing power of Brazil. This, of course, would not only be against our own interests but against

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<sup>45</sup> Mr. Penteado conferred with the Secretary of the Treasury in November. For the substance of the Secretary's message, see telegram No. 135, November 25, 5 p. m., to the Chargé in Brazil, p. 362.

the common purpose we are endeavouring to reach—a greater development of trade between our two countries.

10. Once reestablished the situation that will allow us to give up the exchange control and return to the policy of free exchange, we will immediately create the Central Reserve Bank along the lines we have studied before, with the exclusive power to issue currency.

11. When a convenient external purchasing power, well adjusted to the economy of the country, has been obtained—through the equilibrium of the international balance of payments, during a more or less lengthy period of time, the Central Bank will maintain the stabilization of the exchange rates with regard to the principal currencies, using, for that purpose, an “equalization fund”, which will be set up little by little, should it be impossible to organize it in any other way.

12. The fundamental condition for the success of this monetary policy is a balanced budget, against which the requirements for the economic development as well as those of the national defense press constantly upon.

13. The Government has just ordered a study in each of its branches of all the public requirements to be taken care of, which were listed to be carried out along the lines of a well ordered plan to be organized in accordance with our possibilities.

14. The promptness with which we will be able to take care of such requirements will allow us, in some way, to reach successfully the aims we have in view and, therefore, the cooperation of your country in that way will be highly valuable, facilitating the execution of a program that will assure the expansion of our economic forces. Only through such cooperation we will be able to take care of our other requirements, including the commitments of the past.

15. The purchase of all the economic equipment we need to solve our problems of land and sea transportation, if made on the American market, on long terms, would allow us to consider immediately, as a whole, those we need most.

16. I do not find it necessary to emphasize the high significance that it would mean to us the possibility to assure, within a short period, the development of the national production.

17. The possibility of meeting our immediate requirements through a financing plan for the sales of material, which would be within our capacity to pay, would practically assure a balanced budget.

18. The establishment of a Central Bank allowing the continuation of the monetary policy and the defense of the value of the currency, would place Brazil in an economic position which could easily be safeguarded, in line with the international policy of your country.

19. The diversity of situation in which we find ourselves compels my country to look for, by other means, the resources which we lack

and must obtain, even though by so doing we are sometimes obliged to forsake principles which are in accordance with our traditions and our habits, but are not suited to the requirements that confront us.

20. The fulfillment of the requirements we have mentioned, carried out methodically, within the real possibilities of our budget, and the creation of a Central Bank for the execution of a monetary policy that will be able to give a relative stability to the purchasing power of the milreis, not only in the internal but also in the international markets, constitute the principal aims of our financial and economical policy.

21. The collaboration that the Government of your country offers to us is, therefore, highly opportune and can decidedly contribute to the success of our purposes.

22. The policy that, since November 1937, has been followed with regard to coffee assures for that product a situation which at least will secure for it stability of prices, and there is no reason to forecast a greater fall in its value.

23. In the same way, the imports of the country do not show a tendency to increase, especially, if the purchases of economic equipment to be made by the Government will be granted by long term payments.

24. Therefore, only the relatively small arrears that exist in connection with the payment of imported merchandise—about £3,500,000—would act as a lowering factor in the event of it being immediately reestablished the free exchange market for the payment of imports.

25. If a credit would be obtained, allowing such liquidation in a reasonable length of time, all difficulties for the normalization of the exchange market would be overcome, in which case the control would be maintained only in relation to the transfer of capital, interests and other remittances of non-commercial nature.

26. To be able to judge to what extent Brazil can take advantage of the cooperation you have offered us for the solution of the difficulties of other nature,—and as such we understand those related to the necessity of economic reorganization and national defense,—it is indispensable, in order to present any concrete suggestion, to know the maximum length of time which could be granted us for the purchase of such economic equipment. The proposals so far have been made by Belgian, and especially German producers, allowing us a term of not more than six years, which, evidently, would curtail very much our purchasing capacity.

27. The last proposal I received of a financial nature, was from a group of Swiss bankers. It was forwarded to me by Senator Molard, President of the Commission of Public Works of the French Senate, who acted, however, in a strict personal character and without any interference from the French Government.



28. The plan was considered interesting and is under study by experts of my Department. The plan can be outlined as follows:

a) Organization of a corporation having French-Brazilian capital, which would undertake to execute the indispensable public works having remunerative character. The capital for that purpose would be recruited abroad, the Brazilian Government being called upon to guarantee a minimum dividend to the shareholder.

b) The opening of a credit in French francs for the sole purpose of permitting the creation of the Central Bank of Issue and promote the soundness and stability of the currency.

28. [*sic*] In connection with this plan, the Government would promote the nationalization of the external debts, replacing the bonds in foreign currency by bonds in Brazilian currency, according to conditions to be agreed upon.

29. I must, in the first place, explain to you that this conversion is contrary to the impression that we always entertained that the agreement as to the debts ought to be made on the basis of the currency contracted for.

30. We recognize the great convenience of promoting immediately the necessary negotiations for this agreement but it looks to us that it can only be examined in a useful way for the mutual interest of the bondholders and my Government, after the solution of the two aforesaid problems. Once this problem is settled, the national increase of the export of our products will permit the carrying out of any reasonable scheme.

31. I have attempted to show to my distinguished colleague the outline of the difficulties which we have to face and the results which I have so far obtained, as well as the means through which the cooperation offered by your Government may be very useful to us, speeding the results and increasing our mutual relations both commercial and political.

Awaiting confidently your reply and with my best personal regards,  
Sincerely yours, A. DE SZ. COSTA

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832.5151/1253

*Memorandum by the Assistant Chief of the Division of Trade Agreements (Darlington) to the Assistant Secretary of State (Sayre)*

WASHINGTON, December 8, 1938.

MR. SAYRE: Your special subcommittee on Brazilian Exchange Treatment of American Commerce met on December 7, to study the reply (No. 274, November 25, 5:00 p. m.) received from the Embassy in Rio to the Department's telegram (No. 132, November 24, noon),

and to consider what further action should be taken in this matter. Mr. Briggs very kindly consented to sit with the subcommittee.

The subcommittee decided that the note previously sent to the Embassy in the Department's telegram should be again sent by air mail together with a copy of the subcommittee's earlier report and that the Embassy should be instructed to discuss the general situation and the note informally with Dr. Aranha. The Embassy was further instructed, after this conversation, to present the note formally, unless there appeared to be some definite objection to so doing. It is the subcommittee's feeling that the note should be presented, and that this method, because of its informal beginning and its friendly nature, would be the most effective and the most appropriate in the circumstances.

An air-mail instruction, prepared in RA,<sup>46</sup> which would give effect to your subcommittee's recommendations is submitted herewith for your approval.<sup>47</sup>

C. F. DARLINGTON, JR.,  
*Chairman*

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832.5151/1253

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

No. 251

WASHINGTON, December 10, 1938.

SIR: Reference is made to the Department's telegram no. 132, November 24, 1938, noon, and to your telegram no. 274, November 25, 1938, 5 p. m., in reply, concerning the possible presentation to the Brazilian Minister of Foreign Affairs of a note concerning exchange treatment of United States commerce.

Unless you perceive some serious objection to doing so, you are requested to discuss this matter in an entirely informal and friendly manner with Dr. Aranha, acquainting him with the text of the proposed note and earnestly soliciting his cooperation in working out a solution of this important and pressing problem. Subsequent to your conversation, you are directed to make a formal presentation of the note, unless it appears that some other course would be preferable, in which case you should request further instructions from the Department. A copy of the proposed note is enclosed.

For your information and guidance in discussing this matter with Dr. Aranha, there is enclosed a copy of a report<sup>48</sup> on Brazilian exchange treatment of American commerce prepared by a special sub-

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<sup>46</sup> Division of the American Republics.

<sup>47</sup> See *infra*.

<sup>48</sup> Not attached to file copy of this document.

committee appointed by Assistant Secretary of State Francis B. Sayre. You are referred to section two of the report, with regard to your comment that "Although it is true that German exporters are now receiving slightly preferential treatment over exporters from the United States, the reason is inherent in the compensation system itself", and to section six of the report with regard to your statement that "The danger of our insisting at this time upon a strict compliance with the Aranha letter of February 2, 1935, is that Brazil might comply but counter with restrictive measures on importation, already contemplated in President Vargas' statement of November 10." In this latter regard, it is of interest to note that the American members of the United States-Brazilian Commercial Committee in New York and the President of the National Foreign Trade Council have indicated informally to officers of the Department that they believe the majority of United States exporters would probably favor Brazilian quantitative limitation of imports with prompt payment for actual imports as compared with the present exchange treatment, if such a choice were necessary.

A telegraphic report of the results of your action in this regard is requested.

Very truly yours,

SUMNER WELLES

[Enclosure]

*Text of Proposed Note to the Brazilian Minister for Foreign Affairs*

**EXCELLENCY:** The United States Government wishes to refer to Article VI of the Trade Agreement between the United States and Brazil in which the Brazilian Government agreed that if it should establish or maintain a control of foreign exchange it would accord to the nationals and commerce of the United States the most general and complete application of the unconditional most-favored-nation principle. The United States Government also wishes to refer to the note addressed by the Brazilian Ambassador, Mr. Aranha, to the Secretary of State on February 2, 1935, the day of signature of the trade agreement, which contained the following statement:

"Animated with the purpose of making Article VI of the trade agreement between Brazil and the United States of America, signed today, perfectly clear, my Government has authorized me to advise Your Excellency that, so long as there may be any need for it to maintain the present control over foreign exchange, it interprets the promise contained in the said article as follows:

1. The Bank of Brazil will furnish sufficient exchange for the payments, as they become due, for all future importations of American products into Brazil."

The United States Government notes that for some time the Brazilian Government has not in fact furnished sufficient exchange for the payments, as they become due, for all importations of American products into Brazil. It also understands that, by virtue of the special currency arrangements governing commercial payments between Brazil and Germany, German exporters are in fact receiving preferred treatment in the matter of payment over exporters from the United States.

The United States Government does not doubt that the Brazilian Government intends to give full practical effect to the obligation freely assumed in the trade agreement, as that obligation is interpreted in the note of February 2, 1935. It would, therefore, welcome being informed by the Brazilian Government as to the steps which will be taken to this end.

Accept [etc.]

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832.5151/1266

*The Acting Secretary of State to the President of the National Foreign Trade Council, Inc. (E. P. Thomas)*

WASHINGTON, December 16, 1938.

MY DEAR MR. THOMAS: The receipt is acknowledged of your letter of November 23, 1938,<sup>49</sup> addressed to Assistant Secretary of State Francis B. Sayre, concerning the Brazilian exchange situation, and your letter addressed to me on the same date,<sup>49</sup> referring to our conversation on November 22 in this regard. In the latter communication, you state that you expect to arrive in Rio de Janeiro about January 8, 1939, at which time you believe it would be helpful to hold a meeting of the members of the United States-Brazilian Commercial Committee in Rio de Janeiro, with the members of the New York Committee who are in Rio de Janeiro at that time also in attendance.

The Embassy at Rio de Janeiro is being advised of the probable date of your arrival at Rio de Janeiro and of your belief that a meeting of the members of the two Committees would be helpful at that time. The Chargé d'Affaires has been requested to facilitate your obtaining information in every appropriate way and to extend to you any other assistance that may be practicable.

The Department naturally desires to receive the observations and suggestions of the United States-Brazilian Commercial Committees which were established for that purpose in New York and Rio de Janeiro, respectively, on January 21, 1938. It is my understanding, however, that the two Committees were to take action on their own

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<sup>49</sup> Not printed.

initiative to study the best means of developing trade between the United States and Brazil and to decide upon the most appropriate solutions to overcome the obstacles which may hinder the natural development of trade between the two countries. While it is recalled that the Brazilian Minister of Finance took action on a previous occasion to call a meeting of the Committee in Rio de Janeiro, it is believed that such action should in general be arranged between the members of the Committees themselves. It is accordingly suggested that you take such action as you may consider appropriate directly with the members of the Committee in Rio de Janeiro.

The Embassies at Santiago and Buenos Aires and the Legation at Montevideo are also being advised of your plans to visit those capitals shortly after the termination of the Conference at Lima, and of your desire to discuss with them the problems confronting United States export trade in the respective countries.

For your confidential information, the Department has instructed the Embassy at Rio de Janeiro to take up with the Brazilian Minister of Foreign Affairs the question of Brazilian exchange treatment of United States commerce under the Brazilian commitment of February 2, 1935.

Sincerely yours,

SUMNER WELLES

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832.5151/1260a : Telegram

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

WASHINGTON, December 16, 1938—7 p. m.

145. You are requested to deliver to the Minister of Finance the following letter to him from the Secretary of the Treasury in reply to the former's communication of December 2:

“December 16, 1938.

My dear Mr. Minister: I have read with great interest your communication of December 2, 1938 regarding financial cooperation between the United States and Brazil.

It is gratifying to note that you feel that your nation is approaching more and more a situation where you will be able to reestablish free exchange markets. We are pleased likewise to receive your expression of the principal aims of your financial and economic policy which would ensure the relative stability of the milreis, not only in the internal but also in international markets. It is particularly gratifying to learn of your intention to establish a Central Bank for Brazil which might cooperate closely with the appropriate agencies of this Government.

As I have already made known to you, this Government is desirous of cooperating with your Government in achieving the economic objectives set forth in your communication. The form of this Govern-

ment's cooperation, however, would necessarily be dependent upon a more definite understanding of the general economic program which your Government contemplates.

In answer to your specific inquiry relating to the maximum length of time which could be granted to your Government for the payment on purchases of needed productive equipment we can say that in our thinking of the problem we have assumed that this would be appropriate to the character of the equipment and its projected life. Obviously, the establishment of this principle would, in many cases, permit far longer periods of amortization than those mentioned in paragraph 26 of your communication to me.

Much, too, depends upon the comprehensiveness of the entire program of economic reconstruction which you are planning and the circumstances under which this program is to be undertaken. It would be necessary, of course, to consider the long term as well as the short term factors with respect to the general economic position of Brazil at the time credits are arranged. Obviously such factors as the appropriateness and effectiveness of contemplated changes in your monetary system, stability of exchanges and the status of your international balance of payments would need to be considered.

I assure you of my personal gratification at the renewed expression of your Government's wish for increasingly effective cooperation between the United States and Brazil.

Sincerely yours,

Henry Morgenthau, Jr."

WELLES

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832.5151/1261 : Telegram

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

RIO DE JANEIRO, December 20, 1938—2 p. m.

[Received 5:09 p. m.]

294. Referring to Department's instruction No. 251, December 10, I discussed this matter at length with Aranha this morning and subsequently presented to him the note enclosed with the above mentioned instruction. He at first evaded commenting on the note itself and instead evinced considerable disappointment at the tone of Secretary Morgenthau's letter to Souza Costa embodied in the Department's 145, December 16, 7 p. m., which he feels does not show a real willingness on the part of our Government to cooperate to the extent of actually extending credits to solve the exchange problem as suggested in Souza Costa's letter. I replied that I considered Secretary Morgenthau's letter a definite opening for Souza Costa to lay before him a concrete program both as regards exchange and the other matters dealt with but I also urged that Aranha treat the exchange question as an immediate problem and not allow it to become involved in the other

matters dealt with in the exchange of correspondence between Souza Costa and Mr. Morgenthau. He finally consented to do this and added that he will discuss our note with the President this afternoon with a view to making concrete suggestions as to a method of improving the exchange situation.

SCOTTEN

832.5151/1264 : Telegram

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

RIO DE JANEIRO, December 22, 1938—10 a. m.

[Received December 22—9:05 a. m.]

295. My 294, December 20, 2 p. m. Aranha informs me that he discussed this matter with the President. He added that he had also talked with the Minister of Finance who requested 48 hours for study. He assured me "We will have the whole thing cleaned up by the end of the year."

SCOTTEN

**REPRESENTATIONS TO THE BRAZILIAN GOVERNMENT REGARDING  
THE SUSPENSION OF SERVICE ON CERTAIN FOREIGN DEBTS<sup>60</sup>**

832.51/1259

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

No. 236

RIO DE JANEIRO, December 31, 1937.

[Received January 10, 1938.]

SIR: I have the honor to invite the Department's attention to the negotiations that are now going on with the Brazilian Government in regard to payments on the foreign debt and in regard to the compensation mark trade between Brazil and Germany. I have the honor respectfully to point out that it is now clear to me that the members of the Brazilian Mission who were in Washington last summer were particularly anxious to ascertain whether or not retaliatory measures could be expected from the Government of the United States in case Brazil took steps desirable from a Brazilian point of view but detrimental to American commercial or financial interests. They received the distinct impression that retaliatory measures under those circumstances were not to be expected, and they came back to Brazil, therefore, with their minds very much at ease.

Respectfully yours,

JEFFERSON CAFFERY

<sup>60</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 350-360.

832.51/1265a : Telegram

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

WASHINGTON, January 14, 1938—4 p. m.

6. The Foreign Bondholders Protective Council has given Department the following summary of their position at the present time:

“No word has been received from Brazil since Mr. Clark<sup>51</sup> last talked with Ambassador Aranha on December 6. The Council cabled Finance Minister Souza Costa January 4 expressing hope active negotiation might soon be undertaken regarding Brazilian dollar bonds but so far no reply.

Under Aranha Plan<sup>52</sup> ten bond issues are in default, one September 1, one November 15, three December 1, and five January 1, and three will be due February 1 and four March 1. Total service on these bonds amounts to \$1,590,000. Federal Government will have payment due in April immediately after expiration of Aranha Plan and no arrangement has been made for any payment after March 31. Furthermore, the monthly payments due November and December 15 for funding bonds have not been made.

While consideration is being given to payments on current trade balances the interests and rights of bondholders should not be lost sight of. Consequently prompt negotiation on behalf of dollar bonds is earnestly requested.”

Please cable Department current prospects.

HULL

832.51/1267 : Telegram

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

WASHINGTON, January 18, 1938—4 p. m.

8. Your despatch No. 236, December 31; telegram 10, January 17, 1 p. m.<sup>53</sup> This Government would of course be reluctant to adopt “retaliatory measures” and does not wish to discuss its relations with Brazil on that basis. The Brazilian Government, however, should not fail to appreciate how widespread and intense is the interest of the United States in the bond situation. Added to concern of our merchants over uncertainty of payments from Brazil, this makes a difficult and unfortunate condition of public opinion affecting our relations with Brazil, in view of what is regarded as unresponsiveness to the highly liberal and favorable attitude which this Government has always maintained. In your discretion you are authorized should

<sup>51</sup> J. Reuben Clark, President, Foreign Bondholders Protective Council, Inc.

<sup>52</sup> See *Foreign Relations*, 1934, vol. iv, pp. 602 ff. For text of debt funding plan embodied in decree No. 23,829, February 5, 1934, see *Diario Oficial*, February 7, 1934, p. 2689; a translation appears in Foreign Bondholders Protective Council, Inc., *Annual Report, 1934* (New York, 1935?), p. 36.

<sup>53</sup> Latter not printed.



appropriate occasion present itself to make known the above to responsible Brazilian officials.

HULL

832.51/1280

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

No. 386

RIO DE JANEIRO, March 7, 1938.

[Received March 14.]

SIR: Referring to recent reports regarding the matter of Brazilian foreign government debts, I have the honor to report that, in my opinion, it would be unwise to press for the conclusion of a debt settlement at this time, having in mind the extremely precarious position of Brazilian foreign exchange. If the Brazilian Government were forced to make a debt settlement at this juncture, the Brazilian authorities, without question, would invite attention to their foreign exchange difficulties and offer a settlement within their present means which would unquestionably not be satisfactory to the holders of Brazilian bonds.

For well-known and obvious reasons, I am not in a position at this juncture to say when an opportune moment will be reached for pressing for a settlement:—all I can say now is that this is not the opportune time.

Respectfully yours,

JEFFERSON CAFFERY

832.51/1281

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

No. 106

WASHINGTON, March 25, 1938.

SIR: Reference is made to your despatches nos. 381<sup>54</sup> and 386 both of March 7, 1938, on the subject of the Brazilian foreign debt situation.

The Department concurs in your opinion that it would probably be unwise to press at this time for a permanent arrangement in regard to payments on the Brazilian bonds, but it believes that it would best serve all interests concerned if the Brazilian Government would not delay further the initiation of conversations with representatives of the American bondholders with a view to agreeing upon such temporary debt service as might be considered consistent with the country's present economic resources. You are requested, therefore, to continue your efforts to impress upon the Brazilian authorities the advantages of commencing such conversations as soon as possible. In this connection, it is believed that you could well emphasize the effects that such action by the Brazilian Government would be calculated to have upon

<sup>54</sup> Not printed.

the unfavorable state of public opinion and credit standing which have been produced in this country by the suspension of debt service.

Current reports from Rio de Janeiro indicate that the Brazilian Government may be giving some consideration to modifying in the near future the present exchange control and possibly making provision for a return to the previous system of requiring that a certain percentage of export drafts be made available to the Government at a fixed rate of exchange, the remainder to be sold in a free market. It would seem particularly desirable that any such measure should be so devised that it would provide for a reasonable debt service.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

832.51/1286

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

No. 475

RIO DE JANEIRO, April 4, 1938.

[Received April 11.]

SIR: I have the honor to refer to the Department's instruction No. 106 of March 25, 1938, regarding the Brazilian foreign debt situation.

In this connection, the Department will be interested to know that in conversation with Senhor Bouças<sup>55</sup> this morning, he stated confidentially that although, as reported in my No. 381 of March 7, 1938,<sup>56</sup> the Minister of Finance had stated his intention of calling a meeting of Brazil's creditors, in Rio de Janeiro, after the termination of the financial discussions with the Secretaries of Finance of the different States, the Minister has now changed his mind. Bouças added that the initiation of conversations with the creditors in the near future is no longer contemplated. He explained that during the discussions between the Minister of Finance and the Secretaries of Finance of the various States, which have been going on for a period of about two weeks and which have just finished, it was agreed that the milreis deposits which have been made against debt plan instalments, under the Aranha plan, may be utilized by those States in productive public works. He added that several of the smaller States were going to take advantage of this immediately, and that although the State of São Paulo, for example, has not signified that it will do so at the present time, it is reasonable to believe that eventually this State, and other large States, will also take advantage of this decision.

Notwithstanding this rather gloomy picture of the situation, as portrayed by Senhor Bouças, I will continue to urge upon the Brazilian

<sup>55</sup> Valentim F. Bouças, Secretary of the Technical Council of Economy and Finance, Ministry of Finance.

<sup>56</sup> Not printed.

authorities the desirability of commencing conversations with the creditors as soon as possible.

Respectfully yours,

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

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832.51/1285

*The Executive Vice President of the Foreign Bondholders Protective Council, Inc. (Francis White), to the Secretary of State*

NEW YORK, April 4, 1938.

[Received April 5.]

SIR: As you know, the so-called "Aranha Plan" for the payment of service on foreign bond obligations of the Brazilian Government and of Brazilian governmental sub-divisions terminated on March 31, 1938. While various State and Municipal issues defaulted on the last payments due under that Plan, all payments due on the bonds of the Federal Government under that Plan were met. However, on April 1, 1938, interest was due after the expiration of the Plan on the 6½% External Sinking Fund Gold Bonds of 1926, due October 1, 1957, and no payment was made on the coupon due at that time.

The 5% Twenty Year Funding Bonds of 1931, due October 1, 1951, had up to April 1, 1938 been paid interest service in full. However, on April 1, 1938, these Funding Bonds went into default as no payments were remitted for the coupon on that date. This constitutes a new default on the part of Brazil.

The Council understands that Mr. Aranha<sup>57</sup> is now giving attention to the exchange situation between Brazil and the United States and is calling a meeting this week for that purpose. It is understood that what he has primarily in mind are the payments necessary for current commercial transactions. While the Council does not in anywise underestimate the importance of these current commercial transactions, I desire to call to your attention the importance to the United States of the \$357,071,745 national wealth of the United States which is represented by the bond obligations of the Federal Government and of the States and Municipalities of Brazil. That much of the national wealth of the United States left the country and went to Brazil and our national economy must perforce be adversely affected if that national wealth be not returned to the United States. Pending its return, adequate interest should be paid on this amount.

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<sup>57</sup> Oswaldo Aranha, then Minister for Foreign Affairs.

I trust that the Department will see its way clear to instruct the American Ambassador in Rio de Janeiro to ask Mr. Aranha to give consideration to the payment of interest on the dollar bonds of Brazil at the same time he is giving consideration to the payment of the commercial balances.

I have [etc.]

FRANCIS WHITE

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832.51/1285 : Telegram

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

WASHINGTON, April 11, 1938—3 p. m.

53. On April 7 the British Corporation of Foreign Bondholders telegraphed the Foreign Bondholders Protective Council that it understood there is a possibility that the Brazilian Government may invite American, French and British bondholders associations to send experts to Rio to study the debt situation, there being some indications that this invitation might be based on a suggestion that discussions should be to find, as a start, means to pay in local currency. The Corporation feels that an invitation in this form would be dangerous and that discussion would have to be free to explore transfer as well as budget provision in milreis and should not be entered into under unacceptable restrictions. The Corporation asked the Council how it would feel in principle if the invitation were free from such possibilities of misconception. It is also consulting the French with a view to all replying on the same lines if an invitation is given.

The Council replied that it knows nothing of the Brazilian proposal and is not interested in milreis payments and has no present intention of going to Brazil.

The Council writes the Department that it feels that Brazilian dollar bonds are on a different basis from the European ones and are entitled to be treated apart from them and that discussions of the dollar indebtedness should be a bilateral negotiation between the Council and the Brazilian authorities and not a general negotiation, which would not necessarily mean that the Council would try to get something for the American bondholders to which they are not entitled, or to take away from anyone else anything to which they are entitled. The Council has no funds to send anyone to Rio and definitely feels that for other reasons it would be wise to have the negotiations regarding the dollar debt in New York rather than in Brazil. The Council requests, and the Department approves, that you informally and unofficially exert your influence to that end.

HULL

832.51/1296 : Telegram

*The Ambassador in Brazil (Caffery) to the Secretary of State*RIO DE JANEIRO, April 23, 1938—11 a. m.  
[Received 11:35 a. m.]

90. Last night the President gave a long statement to the press concerning the state of the nation. Following is full text of portion relating to the foreign debt:

“The suspension of the foreign debt was not a mere caprice; it was imposed by compelling circumstances of our not disposing of the necessary funds. The fall in the price of coffee, the reduction in the favorable trade balances from our exports, which was much greater than the sum necessary for the service, and the lack of cover for our foreign exchange, all created a situation for which this was the only remedy. However, this solution is of a temporary nature. The readjustment of our economy will certainly permit us later to resume the payments if our exports show a sufficient favorable balance. Otherwise there would remain for us only the recourse of nationalizing our foreign debt by the conversion of bonds into national currency. This would still be an evidence of our desire to pay. However, time and circumstances may still provide us with an opportunity to examine with the interested parties some other solution.”

Please inform Department of Commerce.

CAFFERY

832.51/1296 : Telegram

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

WASHINGTON, April 30, 1938—11 a. m.

60. Your 90, April 23, 11 a. m. This press statement affords an opportunity to take the default question up with President Vargas in a more formal and pressing way than has recently been done, and to seek to forestall both immediate and eventual developments which would do widespread harm in the relations between the two countries.

Please see him in the presence of Aranha if you deem this desirable and state that you are instructed to say that in spite of the reasons he advances for the suspension of bond service, the opinion prevails both in financial and in bondholder circles in the United States that Brazil is able even at the present time to maintain some payment and indeed, according to many, the Aranha plan schedules on its foreign bonds. This is stated confidently in the quarters to which the public looks for financial information and advice and is readily believed in view of Brazil's past record. The various statements from Brazilian authorities giving hope that bondholders organizations would soon be approached are also recalled. The pressure of dissatisfaction is intense and is scarcely diminished by the President's statement regarding the

temporary nature of the situation, which is qualified by an indication that there is some doubt whether the balance of trade will permit payments to be resumed at some later date or whether it will not be necessary to convert the bonds into obligations payable in Brazilian currency.

Opinion here was impressed by the change of coffee policy, and has noted the lower price of coffee but it understands that in the case of Brazil this is largely compensated by increased exports. The immediate details of the financial position are not known but it is appreciated that the import side of the balance of trade is largely within the control of Brazil and that increased or extraordinary imports could make it impossible to pay bond service. It is not perceived how conversion of the bonds into milreis would help the situation for the American bondholder, and it would greatly impair the marketability of his bonds. It is known that the Brazilian Government has been in contact with the Foreign Bondholders Protective Council, and it is not understood why if the Brazilian Government is concerned for the good opinion of the American bondholders it should not lay its position before the Council, discuss it in such manner as may develop, and put the Council in a position intelligently to formulate its own position vis-à-vis the bondholders who look to it for advice and for protection of their interests.

The United States Government does not know what action, if any, the Council, which may still be awaiting confirmation of press reports of the President's statement, may be formulating. Some action will no doubt be found necessary in view of the Council's responsibility to the bondholders and its need to retain and justify their confidence. The Department is concerned lest the Council's action and the attitude it may find it necessary to take in the absence of full information about the financial problem and of any indication of willingness of the Brazilian Government to continue the negotiations already begun may result in a further and more definite alienation of American opinion on this issue and may make it eventually more difficult of mutually satisfactory solution. It is for these reasons that the United States Government, which itself finds difficulty in understanding the facts of the Brazilian situation and which recognizes considerable validity in the reasoning which prevails here, wishes to urge that the Brazilian Government take the initiative in reopening discussions with the Council in a way that will afford every possible reassurance to American bondholders and public opinion and will allow the Council its proper influence in the situation. It is believed that nothing but good could come from such action.

Please communicate the substance of the foregoing to the President and report the results by telegraph.

832.51/1306 : Telegram

*The Ambassador in Brazil (Caffery) to the Secretary of State*RIO DE JANEIRO, May 10, 1938—5 p. m.  
[Received 5:55 p. m.]

104. Department's telegram No. 60, April 30, 11 a. m. I have seen President Vargas and given him Department's message. He was very cordial but he did not commit himself. However, I have received from the Itamaraty<sup>58</sup> a lengthy memorandum on the subject which I shall transmit by air mail.<sup>59</sup> After reciting in some detail the reasons why the debt was suspended and why the Brazilian Government felt that it cannot resume payments at this time and expressing the hope that a return of prosperity will be experienced at an early date, the memorandum concludes with the following: "and, just as soon as the expected recovery has taken place, conversations will be initiated for the regularization of the situation of the foreign debt of the nation, a subject which the Government considers to be of the highest and greatest importance".

CAFFERY

832.51/1324 : Telegram

*The Ambassador in Brazil (Caffery) to the Secretary of State*RIO DE JANEIRO, July 18, 1938—3 p. m.  
[Received 4:45 p. m.]

172. President Vargas has authorized Ambassador Pimentel Brandão,<sup>60</sup> upon his return to Washington, to initiate conversations with the Foreign Bondholders Protective Council. Brandão asks that the matter be kept entirely confidential and he particularly desires that the Council be not informed of this, also the Brazilian authorities do not desire the European creditor nations to hear of it. It is Brandão's present intention to leave here on the 22nd instant for Buenos Aires, returning to Washington by way of La Paz and the west coast of South America. He hopes to arrive in Washington the latter part of August.

CAFFERY

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<sup>58</sup> Brazilian Foreign Office.

<sup>59</sup> Not printed.

<sup>60</sup> Mario de Pimentel Brandão, former Minister for Foreign Affairs, succeeded Aranha in April 1938 as Brazilian Ambassador in the United States.

832.51/1338

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

No. 884

RIO DE JANEIRO, September 14, 1938.

[Received September 22.]

SIR: I have the honor to inform the Department that in the course of a conversation with Mr. Warren Lee Pierson of the Export-Import Bank regarding credit facilities in connection with the proposed purchase of twenty-six locomotives and one thousand freight cars, the Minister of Finance stated that the Government would require long term credits so as not to upset budget calculations for the next two or three years. When Mr. Pierson informed him that the Bank would cooperate with manufacturers on the basis of credits for five years, the Minister stated that such a project would be acceptable to the Government, and that it would not interfere with plans for resuming part payment of the external debt.

The Minister stated that the Government must do something about the external debt and that before the end of the year a commission would review the matter, with the thought in mind of meeting part of the servicing requirements. While he did not state that the Government intends to begin payments in 1939, he repeated several times that the present situation cannot continue and that the Government must do something about it as soon as possible. The Minister stated that, beginning in 1940, the payments on commercial credits in arrears would decrease, and that this would facilitate payment of part of the foreign debt. Mr. Pierson pointed out that the question of the foreign debt was very important and that he was pleased to learn that the Government was likewise mindful of the desirability of settling this problem.

Respectfully yours,

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

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REPRESENTATIONS TO THE BRAZILIAN GOVERNMENT REGARDING  
THE GERMAN-BRAZILIAN COMMERCIAL AGREEMENT<sup>61</sup>

632.6231/280

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

No. 258

RIO DE JANEIRO, January 11, 1938.

[Received January 20.]

SIR: Referring to previous reports concerning the German compensation mark situation, I have the honor to report that the Brazilian

<sup>61</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 318-350.



authorities are having a meeting this afternoon with the German Ambassador<sup>62</sup> in order to continue their discussions regarding the signing of a new commercial agreement between Brazil and Germany. The Brazilian authorities state that the German Ambassador is unwilling to sign any undertaking in connection with "indirect subsidies".

The German position in this matter is that Germany need not, necessarily, buy Brazilian coffee and cotton, and if Brazil interferes in the operation of the compensation mark arrangement she will buy coffee and cotton elsewhere.

As the Department is aware, Brazil is anxious to sell coffee and cotton to Germany: in fact, the Brazilian authorities see no reason why Brazil should not sell as much coffee and cotton as Germany will buy.

Respectfully yours,

JEFFERSON CAFFERY

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632.6231/280: Telegram

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

WASHINGTON, January 26, 1938—11 a. m.

12. Your despatch no. 258, January 11. The Department is greatly concerned with this latest report from your Embassy concerning the status of the Brazilian-German negotiations with respect to the subsidization of exports. The Department's position in this matter remains as explained in its telegram no. 66, November 3, 8 p. m.<sup>63</sup>

If by the term "indirect subsidies" the German Government means subsidies paid by agencies of the German Government such as so-called associations of industry, it is obvious that any commitment on the subject by Germany which would exclude "indirect subsidies" would be of no value whatsoever to the trade of this country and would be wholly inconsistent with the agreement reached with Brazil last summer.

Regarding the last two paragraphs of your despatch, this Government is unable to accede to the position that since Germany may not continue to purchase Brazilian products except upon the former's own terms, regardless of the extent to which those terms imply unfair competition with trade of the United States, Brazil should permit such trade practices in prejudice of this country's legitimate interests, while expecting the United States to continue to purchase a large proportion of Brazilian products under no trade restrictions and without even an import tax on Brazilian coffee.

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<sup>62</sup> Karl Ritter.

<sup>63</sup> *Foreign Relations*, 1937, vol. v, p. 345.

The Brazilian authorities would do well to anticipate the very detrimental effect that would be produced upon public opinion in the United States if the basis of the trade agreement between the two countries is permitted to be undermined by a continuation of a wholly inconsistent type of trade with any third country to the prejudice of both United States export trade and the liberal principles of international trade which this Government is attempting so earnestly to further. They should realize, too, that it cannot be foreseen what effects such a state of public opinion might have upon the trade relationships between the two countries. You are requested to make known to the Brazilian officials the substance of the above on every appropriate occasion.

HULL

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632.6231/284 : Telegram

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

RIO DE JANEIRO, January 27, 1938—noon.

[Received 1:34 p. m.]

17. Department's 8, January 18, 4 p. m., third sentence.<sup>64</sup> Following further pertinent conversations with the Brazilian authorities, Aranha<sup>65</sup> handed me a draft note addressed by the German Ambassador to the Minister for Foreign Affairs embodying a new Brazilian-German compensation arrangement which Aranha tells me his Government is prepared to accept. Points 1 and 2 of this draft are identical with points 1 and 2 in the Brazilian draft note to the German Chargé d'Affaires dated September 30th, transmitted to the Department with my despatch 108 of October 23, 1937.<sup>66</sup> The balance of the note follows:

"3. For the importation into Germany of the following specified Brazilian products against payment in *verrechnungs* marks there will be conceded import licenses during the next 12 months up to the quantities mentioned below as and when the possibilities of compensation permit: 18,000 tons of tobacco leaf; 10,000 tons of frozen meat; 200,000 boxes of oranges; 4,000 tons of bananas; 4,000 tons of Brazil nuts.

4. The Government of the Reich will give, in accordance with the compensation possibilities, during the next 12 months, licenses for the importation of the following Brazilian products: dried and salted hides, skins, wool, oil bearing seeds, rubber, vegetable oils, woods, minerals and other raw materials, cocoa, matte, honey, fruits, eggs and other Brazilian products. The provision in this paragraph, however, does not prejudice the obligation mentioned in the third paragraph.

<sup>64</sup> *Ante*, p. 374.

<sup>65</sup> Oswaldo Aranha returned to Rio de Janeiro from his post as Ambassador in the United States in December 1937.

<sup>66</sup> Not printed.

5. The distribution of import licenses for Brazilian products by the competent authorities in Germany will be made on an equitable basis.

6. The concession of import licenses for the importation of Brazilian products into Germany or for the exportation of German products destined to Brazil cannot depend on any stipulation which excludes the vessels of one or the other contracting party from the transportation of the products referred to.

7. The Government of the Reich, in agreement with the Brazilian Government that competition in the Brazilian market for the placing of products of foreign origin should be on an equitable basis, declares that no article of German production destined for importation into Brazil shall be the subject of subsidies of the Government of the Reich.

8. In case, within 1 year, counting from the present date, the German-Brazilian commercial interchange develops in such a manner that German exports to Brazil exceed Brazilian exports to Germany, or vice versa, the Government of the Reich will communicate with the Brazilian Government in order to examine the question arising from the unilateral increase of commercial interchange between the two countries and the consequent difficulties in the liquidation of the respective payments.

9. After 12 months of the present agreement have passed, the same will continue in effect; however, it may at any time be denounced by either of the two parties with previous notice of 3 months.

10. If during the life of the present agreement, one of the contracting parties modifies its system of importations or of compensation which is in effect between the two countries on the date of the signature of this agreement, the two parties will open negotiations with the object of adapting the above mentioned provisions to the new situation. If the negotiations do not arrive at a satisfactory conclusion within 15 days, each one of the Governments reserve the right to denounce the present agreement upon previous notice of 15 days."

The Department's comments are requested by telegraph.

CAFFERY

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632.6231/284: Telegram

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

WASHINGTON, January 29, 1938—1 p. m.

14. Your 17, January 27. Please ask the Brazilian Government at once if it has secured from the German Government a definitive understanding that paragraph numbered 7 of the draft note submitted by the German Ambassador is intended to cover subsidies extended to German products by the German export subsidy organization organized by German business under the direction and order of the German

Government. Obviously, since, according to our understanding this is the chief agency of subsidy, if its payments are not included the German undertaking would have little meaning in the way of assurance to American exporters against the necessity of having to meet the inequitable competition which we have brought to the attention of the Brazilian Government.

The other features of the draft note are being studied and further comment will be transmitted.

How do the specified quantities of Brazilian products mentioned in numbered paragraph 3 compare with actual Brazilian exports of these commodities to Germany during 1936 and 1937?

HULL

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682.6231/287 : Telegram

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

RIO DE JANEIRO, February 1, 1938—4 p. m.

[Received 4:30 p. m.]

24. Department's telegram No. 14. Aranha told me frankly this morning that he intends . . . to bring this whole compensation mark matter to the attention of President Vargas. (Aranha, the Minister for Foreign Affairs<sup>67</sup> and Bouças,<sup>68</sup> the latter two powerless in this case, are the only known Brazilian officials who believe something should be done about compensation marks.) Aranha does not, however, wish to confine his discussions to article 7 but would like to take the matter up as a whole: Therefore, for his purpose, it is essential that the Department transmit "further comment" mentioned in the second paragraph of the Department's telegram.

Aranha added that the German Ambassador, in negotiations with him and Sousa Costa,<sup>69</sup> a few days ago was reluctant to include article 7 in the draft note presented by the German Embassy.

Would a sentence along the lines suggested in the Department's No. 87, November 24, 2 p. m.<sup>70</sup> and modified in the Department's No. 3, January 12, 4 p. m.<sup>71</sup> meet the Department's objections?

CAFFERY

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<sup>67</sup> Mario de Pimentel Brandão.

<sup>68</sup> Valentim F. Bouças, Secretary of the Technical Council of Economy and Finance, Ministry of Finance.

<sup>69</sup> Arthur de Souza Costa, Brazilian Minister of Finance.

<sup>70</sup> *Foreign Relations*, 1937, vol. v, p. 349.

<sup>71</sup> Not printed.

632.6231/289 : Telegram

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

RIO DE JANEIRO, February 2, 1938—3 p. m.  
 [Received February 2—3 p. m.]

26. My telegram No. 24, February 1, 4 p. m. During the conversation I had with Aranha yesterday I took occasion to refer to the Department's telegram No. 12, January 26, 11 a. m., which made an impression upon him.

Aranha told me this morning that after our conversation he . . . explained the whole situation to the President, who decided that something must be done to improve our competitive position with reference to Germany in this market.

Aranha now feels definitely more optimistic in regard to this business.

CAFFERY

632.6231/290 : Telegram

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

RIO DE JANEIRO, February 2, 1938—4 p. m.  
 [Received February 2—2:45 p. m.]

27. My 26, February 2, 3 p. m. Aranha is still insisting that it is more important to control the exchange value of the compensation mark (my telegram No. 18, January 27, 4 p. m.<sup>72</sup>) than it is to attempt to prevent subsidies. I am endeavoring to persuade him of the error of this.

CAFFERY

632.6231/291 : Telegram

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

RIO DE JANEIRO, February 2, 1938—6 p. m.  
 [Received 7:03 p. m.]

28. My 27, February 2, 4 p. m. I explained to Aranha that if instead of the measures he was advocating the Bank of Brazil increased the value of the compensation mark until it reached the level of the reichsmark, in my opinion satisfactory results would be achieved.

Aranha today, acting as the President's representative in this case, instructed the Exchange Director of the Bank of Brazil<sup>73</sup> gradually to increase the value of the compensation mark until it reached the level

<sup>72</sup> Not printed.<sup>73</sup> Ribas Carneiro.

of the reichsmark. The Exchange Director has notified the managers of the two local German banks that beginning tomorrow the compensation mark will be quoted at 15 to the pound as contrasted with today's quotation of 15.50.

Please bring the last sentence to the attention of the Department of Commerce.

CAFFERY

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632.6231/284 : Telegram

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

WASHINGTON, February 2, 1938—7 p. m.

19. Your telegrams no. 17, January 27, noon, and No. 24, February 1, 4 p. m., and the Department's 14, January 29, 1 p. m. The Department has studied those provisions of the draft note transmitted in your No. 17, which relate to compensation trade and on which it indicated it might comment later. It has now decided that it does not desire to comment on the specific details of these provisions as long as there are no changes in the draft of these provisions.

On the general question of compensation, as apart from this particular set of details, the Department relies upon the assurances referred to in your No. 18, January 27, 4 p. m.,<sup>74</sup> that the exchange rate for the compensation mark will be subjected to control by the Bank of Brazil. It is its understanding that the objective of such control of the compensation mark rate will be to prevent significant fluctuations and to prevent its being cheapened as compared to the dollar. The fluctuation of the compensation mark independently of the fluctuation of free currencies cannot fail to create disturbances and uncertainties for traders whose transactions are based upon the free currencies and the depreciation of the compensation mark would of course widen the advantages from and the inducements to import from Germany in preference to other countries.

Although not commenting upon the specific compensation arrangements contemplated in the agreement between Germany and Brazil, the Department repeats that it must be clear to the Brazilian Government that if compensation trading is allowed to expand unduly it will seriously impair the advantages of the trade agreement between the United States and Brazil, the safeguarding of which was sought in the agreements reached in the conversations with the financial mission in Washington last July.

With reference to the last sentence of your No. 24, the Department would be agreeable to the language suggested in its No. 87, November

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<sup>74</sup> Not printed.

24, 2 p. m.,<sup>75</sup> as modified in its No. 3, January 12, 4 p. m.<sup>76</sup> In this or in any other formula it would be this Department's clear understanding that the undertaking against subsidization of exports from Germany to Brazil would apply to subsidies extended to German products by the German export subsidy organization organized by German business under the direction and the order of the German Government. This was our clear understanding at the time of the conversations last July, it has been the Department's consistent position since that time in the exchange of views with the Brazilian Government, and the Department is not able to see how the assurance of the Brazilian Government given in the Ambassador's note of July 14, 1937,<sup>77</sup> could have significant meaning if it were to be circumscribed so as to prevent its extension to the chief method of subsidizing German exports.

HULL

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632.6231/291: Telegram

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

WASHINGTON, February 3, 1938—7 p. m.

20. Your telegrams Nos. 27 and 28, February 2, 4 p. m. and 6 p. m. The Department has repeatedly indicated to the Brazilian Government its hope that that Government would at an early date find it possible to eliminate all elements of compensation from its commercial relations. It would therefore view with gratification efforts of the Brazilian Government to restrict special compensation currencies or to prevent such currencies from being utilized at rates more favorable than the rates obtaining for free currencies.

At the present time, however, the Department is more immediately concerned with the questions of subsidized trade and of delayed payments for imports of American products than it is with the complete elimination of the differential between the rate for the compensation mark and the rate for the Reichsmark. The Department feels that no undertaking with respect to the rate for the compensation mark, even if it were to be made identical with the rate for the Reichsmark, could be a satisfactory substitute for an assurance regarding the subsidization of goods imported into Brazil in competition with American goods included in Schedule I of the trade agreement. There would be no assurance that an appreciation in the rate for the compensation mark would not be offset by a corresponding increase in the amount of subsidies bestowed on German exports.

Accordingly, you should say to Aranha and to the other Brazilian

<sup>75</sup> *Foreign Relations*, 1937, vol. v, p. 349.

<sup>76</sup> Not printed.

<sup>77</sup> *Foreign Relations*, 1937, vol. v, p. 334.

officials in discussions upon this point that the Department places primary importance upon the assurance with respect to subsidies and upon assurance that the compensation mark will not be permitted to fluctuate significantly nor to depreciate significantly as compared to the dollar. If, in addition to this, the Brazilian Government is disposed further to restrict the compensation mark by increasing its value as compared to the Reichsmark or by circumscribing its uses, that would of course be highly satisfactory to this Government.

HULL

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632.6231/294

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

No. 350

RIO DE JANEIRO, February 23, 1938.

[Received March 4.]

SIR: I have the honor to transmit, for the information of the Department, a memorandum of a conversation between the Counselor of the Embassy and Senhor Barbosa Carneiro, the Chief of the Commercial Section of the Foreign Office on the compensation mark situation.

Respectfully yours,

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

[Enclosure]

*Memorandum by the Counselor of Embassy in Brazil (Scotten)*

RIO DE JANEIRO, February 23, 1938.

I inquired of Barbosa Carneiro this morning what the possibilities are of securing the Germans' consent to agree to discontinue indirect subsidies. He replied that he was convinced there was no chance whatsoever of the Germans agreeing to prohibit subsidies from their export subsidy organization. He added that he had discussed this matter at length with the German Ambassador on several occasions. The latter freely admitted that German exporters were receiving assistance from German industry. The Ambassador took the point of view that this was not assistance from the German Government, and since it was rendered by German industry itself, it was purely and simply a German internal matter to which no other country had the right to object. The Ambassador added that if the Brazilian exporters wished to sell their coffee at a loss, this was something which the Germans could not object to, and he challenged the right of Brazil to object to the present practice.



Barbosa Carneiro stated that with this attitude of the Germans he saw no use in trying to push this matter further. He added that the objective of Brazil was to limit the field of German possibility of competing unfairly with other countries and principally the United States. This could be achieved in one of two ways: either by obtaining the assurances which we were asking, or by the imposition of quotas upon German imports into Brazil. Since the first method is in his opinion impossible to obtain, he believes that Brazil should attempt the second method.

I at once pointed out that although of course it would be impossible to discuss the exact merits of such a method without seeing figures, etc., I was very skeptical of its efficacy in view of the fact that it envisaged also the imposition of quotas by Brazil on her own exports. He replied that Brazil had already placed those quotas. I answered that the quotas meant absolutely nothing, as far as American trade was concerned, because they were quotas based upon the maximum sale of Brazilian products to Germany and do not envisage any practical restriction on German trade. I stated furthermore that, as he well knew, it was not the policy of the United States to attempt to restrict Brazilian-German trade; on the contrary we would welcome its expansion, provided it was carried on in a normal way and provided our goods could compete with German goods under a fair system of commercial competition.

After reflecting a minute, he said, "Yes, of course you are right, providing the quotas on Brazilian exports remain as large as they are at present; but I have in mind recommending an actual diminution of those quotas so as to bring about a practical limitation of German trade." He added that of course it would be a very serious thing to put this system into effect, as, if Brazil did it with Germany, she would also have to impose quotas on goods from Italy and possibly Japan, and even France. I again stated that I was frankly very skeptical of any good which the United States would obtain from such a system. I recalled that we had received from Macedo Soares<sup>78</sup> in 1936 a positive assurance that Brazilian-German trade on a compensation basis would be restrained within normal limits.<sup>79</sup> Furthermore, we had been assured by Macedo Soares that the importation of certain products from Germany, which especially competed with American products, such as typewriters, etc., would be restricted to the 1934 figures. I stated that we were unable to see that either of these assurances had been carried out, and as far as we could see there had not been the slightest attempt on the part of Brazil to control this trade. He looked very uncomfortable, but admitted that this was a fact. He

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<sup>78</sup> José Carlos de Macedo Soares, then Brazilian Minister for Foreign Affairs.

<sup>79</sup> See telegram No. 146, June 6, 1936, from the Ambassador in Brazil, quoting memorandum from Macedo Soares, *Foreign Relations*, 1936, vol. v, p. 264.

added that machinery would have to be set up to control this trade. I then recalled that we had been assured that machinery would be set up in the form of a Control Board headed by João Lourenço and that although this Board had been in existence for two years, we were unable to see that it had done the slightest thing. Barbosa Carneiro frankly admitted this to be a fact. He repeated that he would urge upon the Minister of Finance the necessity of the imposition of quotas on German imports, and then stated that this was the same recommendation that he had made before the Financial Mission went to Washington.

I then recalled that the German-Brazilian agreement<sup>80</sup> had expired last June, and that almost a year had gone by and Brazil and Germany were actually still operating under the old agreement. I stated that our telegrams from Washington clearly indicated that the State Department felt that Brazil was not playing ball with us on this subject. Barbosa Carneiro again looked uncomfortable, and then brought forth the usual argument that every time there is any attempt to make the Germans do anything, the German Embassy gets its agents, who are business men all over the country, to flood the Ministries of Foreign Affairs and Finance with letters. He stated that already the tobacco exporters and cotton exporters are complaining that Germany is not granting import licenses for their tobacco and cotton, and that every day he receives several letters in favor of continuing the German compensation arrangement.

I stated that I felt that Brazil was entirely too much afraid of the attitude of the Germans, and that should Brazil actually bring herself to the point of taking action in this matter she would find that the Germans considered the Brazilian market to be just as important as the Brazilians considered the German market to be.

I repeat that all through my conversation Barbosa Carneiro was most unhappy and uncomfortable, and I received the distinct impression that he was at a loss as to what to say and that for his part, at least, nothing much will be done to rectify the situation in our favor.

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632.6231/298

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

No. 355

RIO DE JANEIRO, February 25, 1938.

[Received March 7.]

SIR: Referring to previous reports concerning compensation mark trade and especially to my despatch No. 350 of February 23, and re-

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<sup>80</sup> Signed June 6, 1936; renewed June 16, 1937, for 3 months; see *Wileman's Brazilian Review*, July 13, 1936, p. 32.

ferring further to my despatch No. 236 of December 31, 1937,<sup>81</sup> I have the honor respectfully to repeat that the members of the Brazilian Mission who were in Washington last summer were particularly anxious to ascertain whether retaliatory measures could be expected from the United States in case Brazil continued her compensation mark trade with Germany. As the members of the Mission received the distinct impression that retaliatory measures were not to be expected, they have been since that time impervious to blandishment or argument and have, thus far at any rate, demonstrated only faint interest in the point of view set out in the Department's various telegrams on the subject. All this is particularly true of Sr. Barbosa Carneiro, who, the Department may recall, was a member of the Brazilian Mission in Washington last summer.

Notwithstanding this situation, I am continuing, and shall continue almost daily, to endeavor to bring about a pertinent change of attitude on the part of the Brazilian authorities.

Respectfully yours,

JEFFERSON CAFFERY

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632.6231/311 : Telegram

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

RIO DE JANEIRO, May 17, 1938—5 p. m.

[Received May 17—4:45 p. m.]

114. Embassy's No. 28, February 2, 6 p. m. The Director of Exchange informs me that the Bank of Brazil today is changing the selling rate for compensation marks to 14.85 to the pound as contrasted with the ratio of 15 to the pound which had been in effect since February 3.

Today's selling rate for compensation marks is milreis 5.880 as against yesterday's rate of milreis 5.825. The Bank of Brazil's new buying rate is 150 reis under the selling rate as compared to 100 reis previously. These changes will of course improve our competitive position with Germany in this market.

I am informed that the German Embassy and the German banks in particular are indignant at the further centralization of compensation mark operations in the Bank of Brazil. The German banks, by that action, are now prevented from making the large profits on exchange transactions which they formerly enjoyed.

Please inform Department of Commerce.

CAFFERY

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<sup>81</sup> Not printed.

632.6231/313 : Telegram

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

RIO DE JANEIRO, June 2, 1938—8 p. m.

[Received 8:21 p. m.]

134. I am informed that the Bank of Brazil decided today that until further notice and pending further study of the economic situation between Germany and Brazil all new contracts for the sale of cotton to Germany must be closed in free exchange instead of compensation marks. As a result of this decision trading in cotton futures for Germany is at a standstill. This measure was decided upon because Germany's purchases of Brazilian cotton with compensation marks have already reached the quota of 62,000 tons which the Brazilian Government has apparently established for 1938 pending conclusion of a new agreement (my despatch 108, Oct. 3, 1937<sup>82</sup>). Another reason for this action is the recent decision of the Bank of Brazil further to reduce its present over-bought position in compensation marks.

In view of the difficulties now being encountered in disposing of this year's record cotton crop I do not believe the Bank of Brazil will be able to maintain this position.

Please inform Department of Commerce.

CAFFERY

632.6231/314 : Telegram

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

RIO DE JANEIRO, June 15, 1938—noon.

[Received June 16—6:30 a. m.]

143. My 114, May 17, 5 p. m. The Director of Exchange informs me that the Bank of Brazil today decided to cross the German compensation mark with the dollar instead of the pound. The daily selling rate for the compensation mark henceforth will be determined by dividing the dollar selling rate by 2.9830; today's selling rate calculated on this basis is 5 milreis 900 reis. The Bank is of the opinion that this action will enable it to reduce its over-bought position in compensation marks which now approximates 27 million marks.

The recent decline in the pound was accompanied by a corresponding drop in the compensation mark, and buyers of mark refrained from purchasing in the belief that the mark would drop further. Since the Bank is determined to reduce the present position in compensation mark it feels that this can best be accomplished by crossing the mark with the dollar, the buying and selling rates of which have been pegged since December 27. It is the intention of the Bank

<sup>82</sup> Not printed.

by this and other moves to curtail commerce between Brazil and Germany in compensation marks.

The Bank of Brazil's new buying rate for compensation mark is now 200 reis under the selling rate as compared with 150 reis previously. This change was prompted by Germany's recent heavy purchases of cocoa. The Bank's representative in Bahia reports that Germans have contracted for 300,000 bags of cocoa at prices higher than offered by other foreign buyers, cocoa exports from Bahia to Germany in 1937 amounted to only 42,362 bags. The Germans, apparently determined to keep the Bank of Brazil in a heavily overbought position in compensation mark, turned to cocoa when the Bank recently required that further sales of cotton to Germany be made in free exchange (see my 134, June 2, 8 p. m.).

Please inform Department of Commerce and Treasury Department.

CAFFERY

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632.6231/317 : Telegram

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

RIO DE JANEIRO, June 18, 1938—noon.

[Received 12:45 p. m.]

144. My 143, June 15, midnight [*noon*]. In order to counteract the efforts of the Germans to keep the Bank of Brazil in a heavily overbought position in compensation marks and in its determination to reduce the trade in compensation marks, the Bank decided today to suspend the crossing of the compensation marks with the dollar or other foreign exchange. Until further notice the Bank will establish arbitrarily daily buying and selling rates for compensation marks. Today's selling rate of milreis 5.920 is higher than at any time since August 1935 when the compensation mark was first quoted separately on the exchange market. The Bank has widened the spread between the buying and selling rates to 320 reis compared to 200 reis previously.

Please inform Department of Commerce.

CAFFERY

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632.6231/338

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

No. 831

RIO DE JANEIRO, August 22, 1938.

[Received August 29.]

SIR: I have the honor to inform the Department that Dr. J. Barbosa Carneiro, Chief of the Commercial Section of the Foreign Office

and Executive Director of the Federal Foreign Trade Council, informed the Embassy a few days ago that he is in receipt of a report stating that American firms are increasing exports of cotton to Germany and that this business is being conducted on the basis of compensation trade. While Dr. Barbosa Carneiro was informed that the Embassy had no information on this subject, he was reminded of the policy of the United States Government with respect to trade with Germany, which has been clearly stated in recent correspondence from the Department. He pointed out that the report was circulating in Brazil and that it was responsible for the recent increase in the number of applications for permits to resume the exportation of Brazilian cotton to Germany on a compensation mark basis. (The Department will recall that exportation of cotton to Germany on a compensation basis has been prohibited by the Brazilian Government for several months. See Embassy's 134, June 2, 8 p. m.) Dr. Barbosa Carneiro added that he has telegraphed the Brazilian Embassy in Berlin, requesting detailed information regarding the present movement of cotton from the United States to Germany.

He then alluded to the compensation arrangement with Germany, which expired last year, but which has been extended for an indefinite period by a verbal understanding between the two countries. He feels that Brazil should negotiate a new agreement with Germany, but in his opinion the Germans will definitely refuse to accept a clause providing that no direct or indirect subsidies shall be granted, and in his opinion it will be difficult for Brazil to complete a new pact with Germany if Brazil continues to insist upon the inclusion of such a clause. Dr. Barbosa Carneiro was of course informed that this point is of special importance to our Government. He emphasized that the Germans are constantly bringing pressure to bear on the Government through their contacts in Brazil to conclude a new agreement. He stated that the Germans know the weak points of the Brazilian Government and are capitalizing on them.

Respectfully yours,

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

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[The Brazilian-German clearing agreement of June 6, 1936, which was renewed by notes signed June 6, 1937, and thereafter extended by verbal agreement, was again renewed by notes exchanged in January 1939. The agreement was discontinued by Brazil on December 12, 1939 (632.6231/349, 392).]

ESTABLISHMENT OF AMERICAN-BRAZILIAN MIXED COMMISSIONS IN  
NEW YORK AND RIO DE JANEIRO FOR THE PROMOTION OF TRADE  
RELATIONS

611.3231 Mixed Commission/5 : Telegram

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

WASHINGTON, December 17, 1937—3 p. m.

95. The Department now desires to move ahead as rapidly as possible toward the establishment of the mixed commissions in New York and Rio de Janeiro which were contemplated in the exchange of notes between this country and Brazil last July<sup>83</sup> and which you have taken up in a preliminary way in your letter of December 6<sup>84</sup> to Mr. Feis.<sup>85</sup> In the language of the Brazilian Ambassador's<sup>86</sup> note to the Department of July 14, these commissions are described as "two Brazilian-American mixed commissions composed of representatives of the commercial interests of the two countries, one in Rio de Janeiro, the other in New York, the purpose of which would be the continuous study of the means to increase mercantile transactions between Brazil and the United States, achieving within the mutual obligations assumed by the Government of the United States and by the Government of Brazil in the trade agreement of February 2, 1935,<sup>87</sup> the most appropriate solutions to overcome the obstacles which might obstruct the natural development of trade between the two countries. These advisory commissions would from time to time inform the Brazilian and American authorities of their work." In the joint public statement<sup>88</sup> made by the Secretary of State and the Minister of Finance of Brazil,<sup>89</sup> it was further stated that the two joint committees would have independent standing and would be guided entirely by the wish to foster trade between the two countries.

From the foregoing it will be clear that these commissions are in no sense authoritative bodies for policing the trade agreement but that they establish an organization representative of commercial interests with the specific purpose of observing trade relations between the two countries, particularly as they are affected by the competition of subsidized and compensation trade, and through these channels, of bringing to the attention of the two Governments facts and suggestions.

<sup>83</sup> This evidently refers to a note from the Brazilian Ambassador to the Secretary of State of July 14, 1937, and the latter's reply of July 31, 1937, *Foreign Relations*, 1937, vol. v, pp. 334 and 335, respectively.

<sup>84</sup> Not printed.

<sup>85</sup> Herbert Feis, Adviser on International Economic Affairs.

<sup>86</sup> Oswaldo Aranha.

<sup>87</sup> Department of State Executive Agreement Series No. 82, or 49 Stat. 3808; see also *Foreign Relations*, 1935, vol. iv, pp. 300 ff.

<sup>88</sup> Of July 15, 1937, *ibid.*, 1937, vol. v, p. 316, or Department of State, *Press Releases*, July 17, 1937, p. 39.

<sup>89</sup> Arthur de Souza Costa.

Particularly at this end, it will be necessary to avoid confusion as to the relations between the New York Commission and the Committee for Reciprocity Information, which is the interdepartmental body charged with receiving the views of interested parties upon trade agreements both before and after such agreements are concluded.

The Department has given some thought to the size of these commissions and is inclined to suggest that the commercial interests of each country should be represented on each commission by two private persons, one of whom will be an alternate.

You are requested to inquire of the Foreign Minister whether the Brazilian Government is in agreement with the foregoing as to the functions and size of the commissions, and if so, whether it would be agreeable to the Brazilian Government to exchange with this Government by January 15 the names of the persons who will serve on these commissions.

The Foreign Trade Council has suggested for the American representatives on the Rio committee, Stephen P. Danforth<sup>90</sup> of Rio de Janeiro and C. Richard Varty, Manager, National City Bank of New York, of São Paulo. Since both your recommendation and that of the Council coincide with respect to Danforth, the Department will probably be disposed to suggest him for the principal American representative. Please cable any comments which you may have with respect to Varty as alternate member as compared with Ralph H. Greenwood,<sup>91</sup> mentioned in your letter of December 6.

The Foreign Trade Council has recommended for membership in the New York committee E. P. Thomas, President of the Council, and Heman Greenwood of the United States Steel Products Company. If there is any possibility of adverse reaction in Brazil to either of these two men, please cable your comments. The Department may consult other organizations in the United States and will keep you informed of any other nominations which it may consider. Is there any family connection between the two Greenwoods mentioned?

HULL

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611.3231 Mixed Commission/6 : Telegram

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

RIO DE JANEIRO, December 20, 1937—7 p. m.

[Received December 20—6 : 10 p. m.]

192. Department's 95, December 17, 3 p. m. The Foreign Office is in agreement as to the functions and size of the commissions and will be prepared to exchange the names of the members by January 15.

<sup>90</sup> Manager of local firm, "Casa Pratt," selling office supplies, business machines, etc.

<sup>91</sup> Local manager of the General Electric Company and a former officer of the American Chamber of Commerce.



The Chief of the Commercial Section of the Foreign Office <sup>92</sup> requests information regarding the method of appointment. He is under the impression that the following procedure was decided upon during the conversations in the Department with the Brazilian financial mission: The Brazilian Embassy at Washington would nominate Brazilian members of the Commission in New York but both the Brazilian and American members there would be appointed by the President of the United States; similarly the American Embassy in Rio de Janeiro would nominate the American members of the commission here but the President of Brazil would appoint both the Brazilian and the American members in Rio de Janeiro.

I agree as to the choice of C. Richard Varty as alternate member instead of Greenwood.

There is no family connection between the two Greenwoods mentioned.

I do not see possibility of any adverse reaction in Brazil to appointment of E. P. Thomas or Heman Greenwood.

CAFFERY

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611.3231 Mixed Commission/10

*Memorandum of Conversation, by Mr. James W. Gantenbein of the Division of the American Republics*

[WASHINGTON,] December 22, 1937.

Participants: Mr. Fernando Lobo, Chargé d'Affaires ad interim of Brazil

Mr. Duggan <sup>93</sup>

Mr. Gantenbein.

Mr. Lobo called by appointment this afternoon and stated that Ambassador Aranha, prior to his departure a few days ago for Brazil, had been particularly interested in the setting up of the two trade committees in New York and Rio de Janeiro and inquired what this Government contemplated with respect to making the designations.

Mr. Duggan explained that our Embassy had proposed to the Foreign Office that the two governments exchange the names of the persons that they intended to designate by January 15, and that a recent telegram from the Embassy indicated that the Foreign Office was agreeable to this proposal. It was also explained to Mr. Lobo that the Embassy and the Foreign Office had agreed upon one principal and one alternate for each country on each of the two committees.

In the first part of the conversation Mr. Lobo declared it to be his understanding that each Government would appoint the representa-

<sup>92</sup> Júlio A. Barbosa Carneiro.

<sup>93</sup> Laurence Duggan, Chief, Division of the American Republics.

tives of its country for both committees, but later when informed that the Embassy in Rio and the Foreign Office had apparently not yet agreed upon whether this would be done or whether each government would appoint all of the members of the committee in its country, Mr. Lobo indicated that his Embassy was not clear upon this point.

Mr. Duggan said that it was the position of this Government that the two committees would have no official standing and that the life of each committee should be limited, for example to two years. Mr. Lobo seemed to approve of both of these points.

Mr. Lobo was told that Mr. Welles was attaching considerable importance to this matter and that we were keeping in communication with the Embassy with a view to having the details promptly agreed upon.

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611.3231 Mixed Commission/9: Telegram

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

WASHINGTON, December 24, 1937—11 a.m.

97. Your 192, December 20, 7 p. m. The Department does not have the impression that any procedure for establishing the joint commissions was decided upon during the conversations with the Brazilian financial mission. While the Department does not attach great importance to one procedure as compared to another and would be glad to discuss any divergent views of the Brazilian Government, it is inclined to favor the nomination of American members of both commissions by this Government and the Brazilian members of both commissions by the Brazilian Government instead of having each Government formally appoint all the members of the commission in its own country.

The Department is also inclined to suggest that the appointments be for a specified term, for example, 2 years.

It is presumed that the Brazilian Government agrees that the commissions and their members will have no official standing as representatives of the governments and will not be entitled to remuneration for services or expenses.

Consulate General's despatch No. 102, December 11,<sup>94</sup> mentions Richard P. Momsen<sup>95</sup> as a selection of the American Chamber of Commerce for Brazil, but his name was not included in the nominations received from the National Foreign Trade Council. Have you any comments regarding him as a possible member?

HULL

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<sup>94</sup> Not printed.

<sup>95</sup> An American attorney practicing law in Rio de Janeiro.

611.3231 Mixed Commission/12: Telegram

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

RIO DE JANEIRO, December 29, 1937—11 a. m.  
[Received December 29—10:05 a. m.]

200. The Brazilian Government is in entire accord with all points raised in the Department's telegram 97, December 24, 11 a. m., concerning mixed commissions.

Although no objection perceived to Momsen the President of the local Chamber of Commerce did not suggest him to me (my letter December 6 to Feis<sup>96</sup>) and I believe better to select a business man than a lawyer in this case.

CAFFERY

611.3231 Mixed Commission/17

*The Under Secretary of State (Welles) to President Roosevelt*<sup>97</sup>

WASHINGTON, December 31, 1937.

MY DEAR MR. PRESIDENT: When the Brazilian Financial Mission was in Washington in June and July of this year, one of the matters under discussion was the improvement of commercial relations between the two countries, with particular reference to the competition experienced by American products in the Brazilian market from the subsidized and compensation trade of third countries, particularly Germany. In the course of the discussions the Brazilian Minister of Finance asked this Department to make suggestions as to possible means of promoting full realization of the advantages contemplated in the trade agreement between the two countries, with particular reference to means which might be taken by the Brazilian Government to assure American products equality of treatment and reasonable competitive equality as compared with the subsidized and compensation trade referred to above.

One of the proposals which we made at this end was that it might be very useful to set up two small committees of representatives of American and Brazilian interests, one committee to function in Rio de Janeiro and one in New York. The functions of the committees would be to keep an eye on the course of trade between the two countries, to observe the operation of the trade agreement, and to report thereon to their Governments. Presumably the committees would also be a sort of clearing house between the business communities of the two countries with reference to the problems of German competition and special trading procedures.

<sup>96</sup> Not printed.

<sup>97</sup> A notation on the photostatic copy of this letter in the Department files reads as follows: "SW OK FDR".

The Minister of Finance was entirely agreeable to this suggestion, and in a note received from the Ambassador of Brazil dated July 14, 1937 and in a joint public statement issued on July 15 by the Secretary of State and the Minister of Finance of Brazil, reference was made to the desirability of creating two such mixed commissions.

In recent weeks the Department has been engaged in conversations with the Brazilian Government, with the American Embassy in Rio de Janeiro, and with interested trade groups in this country with a view to settling questions of procedure and of personnel. The Brazilian Government has now informed us that it is agreeable to moving ahead to the creation of these commissions and the exchange of the names of the persons who will serve on them, by January 15, 1938. The two Governments are in agreement that on each of the two commissions the commercial interests of each country shall be represented by two private persons, one of whom will be an alternate. They are in agreement that the two joint committees shall have independent standing and be guided entirely by the wish to foster trade between the two countries. They will be in no sense authoritative bodies for policing the trade agreement between the United States and Brazil but they will establish an organization representative of commercial interests with the specific purpose of observing trade relations between the two countries, as indicated above.

The two Governments are also in agreement that the commissions and their members, having no official standing as representatives of the Governments, will not be entitled to remuneration for services or expenses. Finally, it has been agreed that appointment of the American members of both commissions shall be made by this Government and that the Brazilian Government shall make the appointment of the Brazilian members of both commissions. The appointments are to be for a specified term of two years.

This Department is now prepared to recommend the following American members of the commissions: for the active member on the New York commission, Mr. Eugene P. Thomas, President, National Foreign Trade Council, Incorporated; for the alternate member on the New York commission, Mr. Heman Greenwood, Assistant to the President, United States Steel Products Company; for the active member on the Rio de Janeiro commission, Mr. Stephen P. Danforth, Manager of the local firm "Casa Pratt", Rio de Janeiro, and formerly President of the American Chamber of Commerce in that city; for the alternate member, Mr. C. Richard Varty, Manager of the National City Bank of New York, São Paulo, Chairman of the Banking, Finance and Exchange Committee of the American Chamber of Commerce, São Paulo.

No official inquiry has been made of these nominees as to their willingness to serve upon these committees on the terms outlined above,

although it is known that Mr. Thomas at least would accept such an appointment and it is believed that all of the nominees are aware that their names have been suggested to the Department in this connection.

If you concur in the establishment of these mixed commissions, in the description of their composition and functions, and in the nominations made herein, I should be pleased, upon instruction from you, to ascertain whether the nominees will be willing to serve upon these commissions and to prepare the appropriate instruments designating them as members, and to proceed to the prompt establishment with the Government of Brazil of these commissions.

Faithfully yours,

SUMNER WELLES

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611.3231 Mixed Commission/21 : Telegram

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

WASHINGTON, January 8, 1938—3 p. m.

2. The Department is now prepared to conclude all arrangements for the establishment of the two mixed committees on the basis of the agreement reached last July and of that reported in your no. 200, December 29, 11 a. m.

Thomas will be the active member of the New York Committee, with Heman Greenwood as alternate American member (Department's 95, December 17, 3 p. m.). The Department desires to invite Stephen P. Danforth to be the active American member of the Rio committee and C. Richard Varty, Manager, National City Bank of New York, São Paulo, to be the alternate member.

Please address letters to Danforth and Varty inquiring whether they will be willing to serve as member and alternate, respectively, and stating in full detail the nature of the committees and including all points covered in Feis' letter to Caffery, November 15,<sup>98</sup> and in the Department's no. 95, December 17, 3 p. m., and no. 97, December 24, 11 a. m. You should in particular leave no possibility of later misunderstanding as to the completely unofficial nature of these committees and of the fact that they will not be entitled to remuneration for services or expenses. Replies to these letters should be sought as promptly as possible. You may wish to ascertain informally in advance of written reply that these nominees will be willing to serve.

Immediately upon receipt of these replies or of the informal assurances, please inform the Brazilian Government of our nominations and state that the Department hopes that it may have the nominations of the Brazilian Government and that the committees may be established by January 15. Please remind the Brazilian Government

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<sup>98</sup> Not printed.

also of the agreement that the appointments shall be for terms of 2 years. It is presumed that the Brazilian Government would want to make simultaneous announcement in Rio de Janeiro and in Washington of the establishment of the committees.

Please keep the Department informed of progress in these matters.

HULL

611.3231 Mixed Commissions/30: Telegram

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

RIO DE JANEIRO, January 15, 1938—11 a. m.

[Received 11:10 a. m.]

9. Department's telegram No. 5, January 14, 3 p. m.<sup>1</sup> Foreign Office informs me the President has approved of the following Brazilian members of the mixed committees: in Rio de Janeiro: Senhor Mario de Gouvea Ribeiro (Isnardine and Companhia); alternate member, Senhor Manoel Ferreira Guimaraes (Sociedade Anonyma Ferreira Guimaraes).

In New York: Senhor Eurico Penteado, delegate of the National Coffee Department; alternate member, Senhor Renato de Azevedo, agent of the Lloyd Brasileiro.

The Foreign Office will obtain the President's signature to the necessary decrees during the course of next week and believes that it will be possible to announce the establishment of the committees simultaneously with the Department on January 22nd.

The American nominees mentioned in the Department's 2, January 8, 2 [3] p. m., are entirely satisfactory to the Brazilian Government.

CAFFERY

611.3231 Mixed Commission/34: Telegram

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

WASHINGTON, January 21, 1938—4 p. m.

10. Your No. 12, January 21, 11 a. m.<sup>1</sup> The following is the text of the statement which the Department plans to issue for tomorrow morning's papers with respect to the Mixed Committees:<sup>2</sup>

"The Department of State today announces the establishment by the Governments of the United States and of Brazil of two Mixed Committees of private trade interests to observe the course of trade between the two countries, to observe the operation of the United

<sup>1</sup> Not printed.

<sup>2</sup> Department of State, *Press Releases*, January 22, 1938, p. 131.

States-Brazilian Trade Agreement, and to report thereon to their Governments.

"These Committees have grown out of discussions in Washington in July, 1937, with reference to trade relations between the two countries. The joint statement issued on July 15, 1937, by the Secretary of State and the Minister of Finance of Brazil summarizes this part of the discussions as follows:

"(Quote fourth and fifth paragraphs of joint statement)

"The two Committees are, as indicated above, private bodies entirely independent of their Governments. Through these Committees there is established an organization representative of commercial interests with the specific purpose of observing trade relations and of reporting their observations and suggestions to the two Governments.

"The members of the Committees, who will serve for a period of 2 years, are as follows:

"(American members as given in Department's No. 2, January 8, 3 p. m. Brazilian members as in Embassy's No. 9, January 15, 11 a. m.)"

Please give this text to the Foreign Office for its information. The Department has no desire that identical statements be issued but wishes to avoid any divergencies in the two announcements which would give rise to different interpretations in the press.

HULL

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**OPERATION OF THE TRADE AGREEMENT BETWEEN THE UNITED STATES AND BRAZIL<sup>1</sup>**

611.8231/1264a

*The Department of State to the Brazilian Embassy*

**MEMORANDUM**

The following points were discussed at the Department of State on June 8, 1938 by His Excellency the Brazilian Ambassador<sup>4</sup> and the Under Secretary of State:<sup>5</sup>

1. In regard to the operation of the trade agreement between the United States and Brazil, the Government of the United States was pleased to be informed that effective May 23 the Bank of Brazil would, whenever it closed exchange,<sup>6</sup> for the importation of goods from the United States, grant exchange without delay, instead of thirty-day exchange contracts as formerly, provided that drafts were forwarded to the Bank of Brazil for collection. It is understood that exchange has now been closed for draft maturities through May 10 upon this basis and that exchange contracts are being granted for daily quota

<sup>1</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 316-318.

<sup>4</sup> Mario de Pimentel Brandão.

<sup>5</sup> Sumner Welles.

<sup>6</sup> See pp. 330 ff.

requirements and for firms operating on open account for applications through May 10. The Department of State recalls that in the exchange of notes of February 2, 1935,<sup>7</sup> interpretative of the trade agreement, the Brazilian Government stated that it would furnish sufficient exchange for the payments, as they became due, for all future importations of American products into Brazil. It is hoped that the Brazilian Exchange authorities will soon find it possible to grant exchange in accordance with the aforementioned undertaking.

The American Embassy at Rio de Janeiro has brought to the attention of the Brazilian Government the increased consumption taxes provided for by Decree-Law No. 301 of February 24, 1938<sup>8</sup> in relation to certain provisions of the trade agreement and has been informed that the matter has been referred to a special committee for study. The Department of State is hopeful that a decision will soon be rendered by the committee as concern is being felt by United States exporters of goods mentioned in the Decree-Law.

2. With reference to the agreement on economic relations between the two countries embodied in the exchange of notes in Washington last summer, His Excellency the then Brazilian Ambassador<sup>9</sup> in his note of July 14<sup>10</sup> stated that the Brazilian Government would use every effort to assure that those goods imported into Brazil which might compete with the American products covered by the trade agreement should not be favored by any direct subsidy from the governments of exporting countries. This is a matter of much importance to the export interests of the United States and it has been discussed at considerable length between the American Embassy at Rio de Janeiro and officials of the Brazilian Government. It is understood, however, that Brazil continues to import substantial amounts of merchandise from at least one country which with slight disguise sustains a comprehensive system and practice of subsidizing exports through government-controlled agencies and that the Brazilian Government has been from time to time extending the operation of a compensation agreement with that country.

The same note of His Excellency the then Brazilian Ambassador recognized that trade through compensation currencies was a device which the Brazilian Government desired to discourage as soon as possible and stated that the Brazilian Government intended to regulate such trade in a manner to prevent the dislocation of trade with countries operating on the basis of free currencies. The reduction by the Bank of Brazil on February 3 last of the German compensation

<sup>7</sup> These notes form part of the reciprocal trade agreement of that date; for texts, see Department of State Executive Agreement Series No. 82, or 49 Stat. 3808; see also *Foreign Relations, 1935*, vol. iv, pp. 300 ff.

<sup>8</sup> Brazil, *Collecção das Leis da República dos Estados Unidos do Brasil de 1938* (Rio de Janeiro, 1939), vol. i, pp. 251-431.

<sup>9</sup> Oswaldo Aranha.

<sup>10</sup> *Foreign Relations, 1937*, vol. v, p. 334.



mark quotation from 15.50 to the pound sterling as compared with 15 as previously, and the further reduction of the quotation from 15 to 14.85 on May 17 appeared to have been within the policy agreed upon in the aforementioned note of the Brazilian Government. In as much as there still remains a considerable margin between the quotation of the German compensation mark and that of the Reichsmark, and since the American Embassy has been informed that the Bank of Brazil intended gradually to reduce this margin until the quotation of the compensation mark reached the level of the Reichsmark, it is presumed that further reductions will soon be made.

3. His Excellency the President of Brazil and other officials of the Brazilian Government have from time to time indicated that that Government had every intention of resuming service on its external debt as soon as economic conditions would permit.<sup>11</sup> In this connection it is recalled that a public statement issued on November 20 last by the office of His Excellency the President of Brazil stated that it had been decided to suspend of that date the remission of funds for external debt service and "to authorize the Minister of Finance to initiate negotiations with the interested parties in the various countries for the purpose of arriving at new agreements within the actual possibilities of the country." It has been disappointing to the Government of the United States that notwithstanding the aforementioned statement conversations have not yet been initiated with the representatives of United States holders of bonds of the Brazilian Government and of its political subdivisions. The Government of the United States fully appreciates the exchange and other economic difficulties which the Brazilian Government has been experiencing in recent months but it does not perceive why the Brazilian Government considers it necessary to postpone further the initiation of the conversations mentioned above, and it is earnestly hopeful that such conversations may be commenced without further delay.

4. With reference to Brazilian Decree-Laws No. 366 of April 11, 1938,<sup>12</sup> and No. 395 of April 29, 1938,<sup>13</sup> governing the petroleum industry and the marketing of petroleum and petroleum products in Brazil, it is confidently assumed that the rights of United States nationals adversely affected will be adequately protected by the Brazilian Government.

5. The Government of the United States hopes that the Government of Brazil and the governments of the other mediatory powers taking part in the Chaco Peace Conference<sup>14</sup> may continue to cooperate closely and effectively to the end that Bolivia and Paraguay may be assisted to reach an early and direct settlement of the Chaco controversy. In

<sup>11</sup> See *Foreign Relations*, 1937, vol. v, pp. 350 ff.

<sup>12</sup> Brazil, *Collecção das Leis da República* . . . 1938, vol. II, pp. 33-38.

<sup>13</sup> *Ibid.*, pp. 72-73.

<sup>14</sup> See pp. 89 ff.

the event of the failure of the present initiative for a direct settlement, the Government of the United States is of the opinion that the six mediatory governments should give immediate attention to drafting a specific program for future negotiations and to obtaining agreement thereto from the two parties.

6. The Government of the United States will continue to make available upon request from the Governments of Brazil and the other American Republics, insofar as the legislation and regulations of the United States Government permit, facilities and cooperation in matters relating to military and naval training. This cooperation, of course, must be upon a basis of absolute equality, and it rests upon the principle that it is to the interest of inter-American solidarity to have such assistance rendered by one American government to another, rather than by a non-American government.

7. In the broad field of inter-American cooperation, the Government of the United States is actively engaged in formulating and carrying out a comprehensive program. This includes such technical advice and assistance as it may be in a position to extend through making available the services of technical advisers in Government employ, upon the request of the other American Republics; exchanges of students and professors; and a number of subjects related to cultural interchange.

8. The Government of the United States hopes that the Intergovernmental Committee to deal with political refugees from Germany may be able to achieve concrete results in its efforts to facilitate the emigration from Germany of political refugees.<sup>15</sup> It hopes that in this effort the American Republics will be able to cooperate effectively, and it expects to communicate in the near future to the participating governments the proposed agenda which will indicate the scope of the work and the contemplated procedure.

WASHINGTON, June 10, 1938.

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COOPERATION OF THE GOVERNMENT OF THE UNITED STATES IN  
CHECKING NAZI ACTIVITIES IN BRAZIL

832.00 Nazi/13 : Telegram

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

RIO DE JANEIRO, February 25, 1938—1 p. m.

[Received 2: 35 p. m.]

40. Minister of Foreign Affairs<sup>16</sup> informs me that Ernst Dorsch, the principal Nazi political agent in Rio Grande do Sul, was arrested

<sup>15</sup> See vol. I, pp. 758 ff.

<sup>16</sup> Mario de Pimentel Brandão.

yesterday. The Minister adds that the General Staff of the Army has determined upon rigorous measures to suppress completely all Nazi and Fascisti activity in Brazil. He adds that the German Ambassador<sup>17</sup> made to him yesterday strenuous protests against the arrest of Dorsch. The Ambassador said emphatically the Minister must realize that he is first and foremost the representative of Hitler and the Nazi Party and after that of Germany. He added that Brazil is the only country to his knowledge where such a campaign against the Nazis is being carried on and that he considers it a direct slap at Hitler; if it continues, Brazilian-German relations will be seriously impaired and the Ambassador himself may even be withdrawn. The Ambassador added that to him this question transcends all other problems between the two countries.

The Minister for Foreign Affairs informed me that while it is possible that Dorsch may be released from custody the campaign against the Nazis and Fascists will be continued relentlessly.

CAFFERY

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832.00 Nazi/15 : Telegram

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

RIO DE JANEIRO, February 27, 1938—8 p. m.

[Received 9:45 p. m.]

42. My telegram No. 40. Aranha<sup>18</sup> came this afternoon from Petropolis where he as well as President Vargas are now staying, to say that the President told him to ask me to request the Department to inform President Roosevelt that he had received a visit from the German Ambassador on Friday when Herr Ritter protested vigorously against the arrest of Dorsch and repeated what he said to the Minister of Foreign Affairs (my telegram No. 40). Ritter adopted an almost threatening attitude in regard to the recent measures taken against the Nazis here and remarked that the "persecutions" (as he called them) were even unlawful in view of the fact that the pertinent Brazilian law referred specifically to Brazilian political party and not foreign; he contended warmly that the German Nazi Party should be allowed to function here. The President replied sharply that he would not tolerate Nazi activities in Brazil. The Ambassador then changed his tone and pleaded as a friend of Brazil. The President then told him that he should address his complaints in writing and shortly thereafter terminated the interview. Aranha says that when the complaints are received they will be categorically turned down. Yester-

<sup>17</sup> Karl Ritter.

<sup>18</sup> Oswaldo Aranha, Brazilian Ambassador to the United States, had left Washington for Brazil in December 1937.

day the German Ambassador went to see the Minister of Finance and told him that his Government has changed its point of view and is now willing to assure the Brazilian Government that there will be no further subsidies by the German Export Trade Organization (mentioned frequently in recent telegrams in connection with compensation mark trading). This matter will be taken up again with the German Embassy immediately after carnival. Aranha remarked that the German authorities have granted no licenses for the importation of Brazilian goods during the past 12 days on account of recent (frequently reported on) changes in the value of the compensation mark effected by the Bank of Brazil.

Aranha says that he will be appointed Minister for Foreign Affairs around the end of this week and Pimentel Brandão will go to Washington as Ambassador.

CAFFERY

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832.00 Nazi/15: Telegram

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

WASHINGTON, February 28, 1938—2 p. m.

32. From the Under Secretary.<sup>19</sup> Your 42, February 27, 8 p. m. I have immediately communicated to the President the message sent him by President Vargas and quoted in your telegram under reference. The President requests me to ask you to let President Vargas know at once of his deep appreciation of the confidence shown in him by President Vargas in communicating to him this message. The President would like President Vargas to know that this Government is confronted by very much the same type of problem, although no incidents have as yet occurred of so acute a nature as that which has now taken place in Brazil. The President further desires President Vargas to know that he would welcome any further information of a similar character which President Vargas may wish to communicate to him and that this Government will in turn keep the Brazilian Government informed of any similar developments which may arise here.

The President expressed particular gratification at the news communicated in the last paragraph of your telegram under reference. Please advise Aranha to this effect and please in my own name express to Aranha and to Pimentel Brandão my own happiness upon learning of the appointments determined upon by President Vargas.

HULL

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<sup>19</sup> Sumner Welles.

832.00 Nazi/15 : Telegram

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

WASHINGTON, March 1, 1938—3 p. m.

34. Department's 32, February 28, 2 p. m. The Department is advised in a telegram received from the American Embassy in Berlin dated February 28 that a member of the Embassy staff was called to the Foreign Office yesterday at the request of Dr. Freytag, Chief of the American Section. The telegram continues as follows:

[Here follows text of telegram printed in volume II, page 461.]

The German Ambassador in Washington<sup>20</sup> yesterday called upon the Secretary of State and communicated officially the substance of the information quoted above.

It would seem desirable for you to communicate the above confidentially to the Minister of Foreign Affairs with the request that he transmit this information to President Vargas in connection with the message sent President Vargas yesterday by the President.

HULL

832.00 Nazi/16 : Telegram

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

RIO DE JANEIRO, March 7, 1938—noon.

[Received March 7—11:15 a. m.]

47. My 42, February 27, 8 p. m. The Minister of Justice informed me last night that the Government will shortly issue a decree law for the purpose of further curtailing the activities of foreign political organizations. The decree law will stipulate drastic penalties for infringements.

CAFFERY

732.62/11 : Telegram

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

RIO DE JANEIRO, March 23, 1938—3 p. m.

[Received March 23—2:50 p. m.]

66. Aranha<sup>21</sup> told me this morning that the Government has received numerous communications from German-Brazilians, as well as Germans, in this country protesting against the attitude and activities of the German Government. They fear that the resentment being aroused among the Brazilian population may eventually "lead

<sup>20</sup> Hans Heinrich Dieckhoff.

<sup>21</sup> Oswaldo Aranha became Minister for Foreign Affairs on March 15.

to physical attacks on German villages and homes"; they point out that most of the German population here lived on cordial and amicable terms with the Government and people of Brazil, and that the present situation has been brought on entirely by the aggressive tactics of the Hitler authorities.

Aranha says that the German Ambassador here has altogether changed his tactics and has adopted a most conciliatory attitude. He has been twice recently to see the Minister of Justice and told him that his Government does not want any extraordinary privileges but only hopes the German nationals here will be allowed to carry on their "purely cultural activities".

CAFFERY

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832.00 Nazi/32

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

No. 530

RIO DE JANEIRO, April 22, 1938.  
[Received April 28.]

SIR: With reference to my telegram No. 89, April 18, 10 p. m.,<sup>22</sup> concerning the abolition of foreign political organizations in this country, I have the honor to enclose copy and translation of Decree-Law No. 383 of April 18, 1938,<sup>23</sup> on this subject. The law in question makes illegal any political activity on the part of any foreign political organization and existing organizations falling within the scope of the law are given thirty days in which to liquidate their affairs and completely dissolve. The law, however, does not abolish foreign cultural, educational, benefit and aid societies, although institutions of this category will now be permanently supervised by the Ministry of Justice. Foreign language newspapers will also be supervised by the Ministry of Justice.

The German Ambassador called upon the Minister of Justice on the day on which the Decree Law 383 was published, for the purpose of ascertaining to what extent German activities could be carried on in view of the prohibitions contained in the new law. I have been informed that the Minister of Justice advised the German Ambassador that the law was clear and that Article 3 provided for the continuance of certain foreign activities of a non-political character.

The first public opportunity for a demonstration of the effects of the new law occurred in São Paulo on April 21, on the occasion of the official visit to that city of Vicente Lojacono, the Italian Ambassador. At a gala performance which the "Dopolavoro" of São Paulo held at the Municipal Theater in honor of the Ambassador, everybody, in-

<sup>22</sup> Not printed.

<sup>23</sup> Brazil, *Legislação sobre Estrangeiros* (Rio de Janeiro, 1941), p. 21.

cluding the Italian diplomatic and consular officials, appeared in civilian dress, no black shirts or Fascist emblems being worn. Heretofore the Ambassador and Italian authorities have always appeared in black shirts on similar occasions. At the "Dopolavoro" performance in São Paulo, the Italian Ambassador commented upon Brazil's friendly attitude toward Italy in remaining absolutely neutral in the Abyssinian conflict, and further stated, "South America is Latin, and will continue to be Latin, even though a certain nation does not desire it to be". The Ambassador also stated that "proletariat Italy will always march against Plutocracy".

It is believed that the new law will be the death knell of Nazi and Fascist political activities in this country, and the local press without exception has given strong approval to the President for his action in this matter.

Respectfully yours,

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

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838.00 Revolutions/597 : Telegram

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

RIO DE JANEIRO, May 11, 1938—7 a. m.  
[Received 7:45 a. m.]

105. Integralista attacks broke out during the night at Guanabara Palace, Ministry of Marine and telegraph stations. Thirty armed Integralistas including Valverde, one of their important chiefs who had entered gardens of Guanabara Palace, were captured. The attackers succeeded in gaining temporary possession of Ministry of Marine but were expelled by Government forces early this morning. No deaths but several wounded. Government contends attempted revolt was confined to Rio de Janeiro and that it has been completely quelled.

CAFFERY

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832.00 Revolutions/598 : Telegram

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

RIO DE JANEIRO, May 11, 1938—5 p. m.  
[Received May 11—4:10 p. m.]

108. My telegram No. 105, May 11, 7 a. m. Last night's attacks were attempt by the Integralistas to assassinate President Vargas with the object of seizing power during the ensuing confusion. The plot, which had ramifications in the Navy, also envisaged the murder of

the Minister of War, the Chief of Staff of the Army, the general in charge at Villa Militar and the commander of the military police, all of whom escaped from their residences due to timely warnings.

There were 10 killed or died from wounds and 18 wounded. No disturbances reported in any other section of the country, and situation now is perfectly quiet here.

Decree placing country under martial law will probably be issued today. Over 300 Integralistas, the majority of which from the Navy, have been arrested.

CAFFERY

832.00 Revolutions/599a : Telegram

*President Roosevelt to President Vargas*

WASHINGTON, May 12, 1938.

Please accept my sincere congratulations upon your fortunate escape from the attempt made upon your life. I send you my most cordial greetings and the assurances of my high personal regard.

FRANKLIN D. ROOSEVELT

832.00 Revolutions/600 : Telegram

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

RIO DE JANEIRO, May 13, 1938—3 p. m.

[Received 3:25 p. m.]

110. I have just seen the Brazilian Minister for Foreign Affairs, who had received a visit a few minutes earlier from the German Ambassador who came to deliver three protests. The first concerning [*concerned?*] the arrest of German nationals yesterday and today in connection with the Integralist *Putsch*. The second was a note denouncing the recent attitude of the Bank of Brazil instructing importers of German merchandise to file immediately statements of their compensation requirements (my despatch No. 546 of April 26<sup>24</sup>). The third was a note protesting violently against decree 383 of April 18, 1938 prohibiting foreign political activities (my despatch No. 530 of April 22).

Aranha had replied to the Ambassador, in the first case, that if Germans were arrested in connection with the *Putsch* there was undoubtedly some good reason therefor. In the second case, he will deny that the Ambassador has grounds for protest. In the third case, the Government will decline to modify decree 383 of April 18.

<sup>24</sup> Not printed.



The Minister for Foreign Affairs added confidentially that in his opinion (although he has no proof) there existed some German connection with the *Putsch*.

CAFFERY

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832.00 Revolutions/601 : Telegram

*President Vargas to President Roosevelt*

RIO DE JANEIRO, May 14, 1938.

[Received 8 : 14 p. m.]

I take satisfaction in thanking you for the terms of your message, Eminent Friend, who well interprets the spirit of solidarity of American nations at the moment when the advocates of foreign doctrines attempted a coup against Brazilian democracy. I reciprocate, and renew to Your Excellency the assurance of my highest esteem.

GETULIO VARGAS

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832.00 Nazi/35 : Telegram

*The Chargé in Germany (Gilbert) to the Secretary of State*<sup>25</sup>

BERLIN, May 17, 1938—4 p. m.

[Received May 17—1 : 20 p. m.]

251. The alleged statements of Vargas implying that the recent outbreak in Brazil was instigated by Nazis as well as the reported accusations in certain Brazilian papers that the conspiracy was actually dictated from Berlin have elicited an outburst of indignant denial in the German press. In substance the general line of editorial comment is that Vargas, given the lead by the press in the United States, is attempting to use the German population in Brazil as a scapegoat to divert public attention from the deeply resented and ever increasing domination and economic penetration of Brazil by the United States which he has condoned. This development is interpreted as another illustration of the deliberate anti-German campaign in Brazil which is mainly nourished by the United States and which according to the *Deutsche Allgemeine Zeitung* has become particularly apparent since the appointment of the former Brazilian Ambassador in Washington as Foreign Minister, an appointment said to have been made at the wish if not under the pressure of the United States.

GILBERT

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<sup>25</sup> The text of this telegram was repeated to the Ambassador in Brazil as Department's telegram No. 67, May 19, 6 p. m.

832.00 Revolutions/603a : Telegram

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

WASHINGTON, May 19, 1938—7 p. m.

68. From the Under Secretary. There is naturally very great interest here both on the part of the Government and on the part of public opinion generally, particularly in view of President Vargas' recent public statements as well as because of the press campaign in Berlin, to know precisely what the Brazilian authorities may have ascertained with regard to foreign participation in and responsibility for the recent uprising in Rio de Janeiro.

Please tell Aranha that I shall appreciate it if he will let you have for our confidential information such information as he feels he can appropriately give us with regard to this question.

Please telegraph fully what he may say to you in this regard.

HULL

701.6232/34

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

No. 606

RIO DE JANEIRO, May 20, 1938.

[Received May 26.]

SIR: I have the honor to inform the Department that Herr Hans Henning von Cossel, Cultural Counselor of the German Embassy in this city has been recalled by his Government and will leave Brazil within the next few days. Herr von Cossel has directed Nazi party activities in this country for the past year. Several months ago, during the course of an informal conversation which I had with the Minister of Justice, Dr. Francisco Campos, I called the latter's attention to Herr von Cossel's presence here. The Minister of Justice was not aware of the nature of Herr von Cossel's work and was very much surprised to learn that he was the head of the Nazi party in Brazil. I was subsequently informed that both the Ministry of Justice and the Foreign Office have closely watched Herr von Cossel's movements.

Yesterday the German Ambassador, Mr. Karl Ritter, called upon the Chief of Police of the Federal District, Captain Filinto Muller, with Herr von Cossel, for the purpose of advising the Police that the latter was returning to Germany and in view of recent events and accusations, he did not wish to leave Rio without obtaining a clean "bill of health" from the Authorities. The Chief of Police immediately gave Ambassador Ritter, a written statement to the effect that there was absolutely no complaint or suspicion against Herr von Cossel.

It is also reported that thus far the Police have not verified anything of a compromising nature with respect to the participation of Germans in the recent Integralista "Putsch".

Respectfully yours,

JEFFERSON CAFFERY

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832.00 Revolutions/605 : Telegram

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

RIO DE JANEIRO, May 21, 1938—1 p. m.

[Received 3:40 p. m.]

120. For the Under Secretary. Department's 68. President Vargas, Aranha, Minister of War, Chief of General Staff, Chief of President's Military Household, all strongly suspect that German representatives here had knowledge of and much sympathy with uprising and possibly took part in plans therefor but thus far they have no definite proof. Duc [apparently garbled] Attaché of the German Embassy, Aranha says, is returning to Germany by special plane.

CAFFERY

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832.00 Revolutions/606 : Telegram

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

RIO DE JANEIRO, May 23, 1938—4 p. m.

[Received 6:15 p. m.]

126. My telegram No. 108, May 11, 5 p. m. Although for some time after the uprising the Brazilian authorities were very much concerned as to the extent and ramifications of the plot they now feel much easier after having read over papers taken, secured confessions from many implicated, et cetera, all of which point definitely to a plan organized by a group of leaders of the Integralista Party acting in conjunction with a number of sympathizers in the Navy, allied with various professional agitators, some of whom have taken part in other uprisings in recent years. The whole business centered on the assassination of President Vargas, the leaders believing that in the resultant confusion they would be able to seize power especially because they were convinced that their allies in the Navy would be able to swing the support of the Navy and that the Army would accept a *fait accompli* and support the new Government.

The failure of the attempt to assassinate President Vargas was due almost wholly to the cowardice and flight of Fournier, who was in command of the group in the garden, and Nascimento, the Captain of the President's guard, who secretly fled when the Minister of War arrived with a few men and they were told that a brigade of troops was accompanying the Minister (when, as a matter of fact, the troops

did not arrive for 2½ hours thereafter). In the meantime, the leaderless group in the garden continued firing but did not have sufficient discipline or courage to assault the Palace, which was being defended by only six men, four loyal members of the guard and two secret police who slept in the Palace. Nobody has satisfactorily explained why it took the troops 3 hours to arrive at the Palace. My own belief is that the explanation privately given by the Chief of Police is the correct one: the authorities were afraid to order out the troops as they did not know on which side they stood; when it seemed clear that the Army was not joining the insurrection, they ordered them out. As is apparent, there was a great deal of muddling on both sides.

Although arrests of the Integralistas are still going on all over the country, there has not been any disorder outside of Rio de Janeiro.

Aranha confessed to me that the Government has been in a very troubled, nervous state, but says that they all feel that they now have the situation well in hand and they do not look for any further explosion at this time or for some time to come.

CAFFERY

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832.00 Nazi/40 : Telegram

*The Ambassador in Germany (Wilson) to the Secretary of State*

BERLIN, May 27, 1938—noon.  
[Received May 27—9:50 a. m.]

272. The Brazilian Ambassador informs me that he took up at the German Foreign Office the matter of German press attacks against President Vargas as reported in my 251, May 17, 4 p. m. He told the Foreign Office that these were obviously based on accounts in the Brazilian press attacking Germany for the alleged participation of German nationals in the events in Rio de Janeiro on May 11. The Ambassador took the position that he could not admit that mere Brazilian press accounts constituted a proper basis for attacks on the Brazilian Government by the German controlled press, that the responsibility for the incidents of May 11 had not yet been officially determined and that to maintain an appropriate relationship between the two countries Germany should await such a determination. He said that if Germany desired Rio de Janeiro to break off diplomatic relations with Berlin they were going the right way about it but that he thought that in any such event the repercussions throughout Latin America would be most unfavorable to Germany.

The Ambassador later officially informed the German Government that investigations had determined that no German nationals were involved in the affair of May 11.

The German press today expresses satisfaction over this Brazilian action and completely changing its tone states that it is "in line with the farsightedness of the Chief of State of the great South American Republic" and creates the atmosphere necessary for the solution of a series of questions pending between Germany and Brazil.

WILSON

832.00 Revolutions/641

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

No. 994

RIO DE JANEIRO, November 4, 1938.  
[Received November 12.]

SIR: I have the honor to inform the Department that yesterday, at the request of the Brazilian Minister for Foreign Affairs, I accompanied the Honorable Breckinridge Long<sup>26</sup> to the Itamaraty.<sup>27</sup> Among other matters, Sr. Aranha spoke at great length of an alleged German plot to foment trouble in Brazil, Uruguay and Argentina. As his conversation developed, I could see that he was referring to the same report made by the Federal Interventor of São Paulo to Consul General Foster on October 30, which was forwarded to the Department in my despatch No. 992 of November 1.<sup>28</sup> Aranha stated that a letter had been intercepted which was addressed to Herr Von Ribbentrop,<sup>29</sup> written by a German, at present living in Santa Catharina, who the Brazilian authorities suspect to be a German General. Aranha did not reveal the name of the writer of the letter, and in fact stated that he had not yet discovered whether the signature was the true name of the writer or not. . . . Aranha went on to say that the letter convinced him beyond any doubt that the German Government itself was making plans through the large German elements residing in the three countries mentioned to cause serious trouble. He added that on November 2 he had attended a meeting with the President, the Ministers of War and Marine, and the Chiefs of the General Staffs of the Army and Navy, at which this matter was discussed at length. He explained that two courses of action were open to the Government: first, to take immediate action to arrest the writer of the letter, as well as everyone in the country who was known to have Nazi sympathies; or second, to attempt to keep the writer of the letter under surveillance and by a patient investigation to discover all the ramifications of the plot. This latter method has been decided upon. Furthermore,

<sup>26</sup> American Ambassador on Special Mission on the initial voyage of the S. S. *Brazil* to Brazil, Uruguay, and Argentina.

<sup>27</sup> Brazilian Foreign Office.

<sup>28</sup> Not printed.

<sup>29</sup> Joachim von Ribbentrop, German Minister for Foreign Affairs.

it was decided to inform the Argentine Government of this whole matter in order that it might be put on guard and be enabled to take adequate steps to protect itself. Aranha mentioned briefly the fact that the Interventor of São Paulo was acquainted with this subject and had in fact been called to Rio and had been present at the conference referred to above. Aranha explained that his Government is on the best of terms with Sr. Mussolini and has no fear of the Fascists trying to start any trouble here. The Germans, however, are in an entirely different category and Aranha is convinced that Brazil has a great deal to fear from them. He reiterated that when he first arrived here from Washington he was skeptical about the intentions of the German Government to cause trouble and had believed that Brazil only had to fear some impetuous act on the part of local Germans of strong Nazi sympathies. However, he is now convinced that it is the German Government itself that desires to stir up trouble and eventually establish a Government here sympathetic with the Nazis.

Aranha deplored the fact that the Brazilian Secret Service is not well organized, but he added that plans are being made to establish some sort of an organization which will be unknown to the rest of their own Secret Service for the purpose of ferreting out the details of this plot. He concluded his remarks by stating that in view of the widespread ramifications of the plot, the matter was, in his opinion, one of continental importance. He requested, therefore, that I report it to the Department, and that Mr. Long report it verbally to the President and Secretary of State upon his arrival in Washington.

Respectfully yours,

R. M. SCOTTEN

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**AGREEMENT BETWEEN THE UNITED STATES AND BRAZIL PROVIDING  
FOR A MILITARY MISSION, SIGNED NOVEMBER 12, 1938**

[For text of the agreement, signed at Rio de Janeiro, see Department of State Executive Agreement Series No. 135.]

## CHILE

### PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND CHILE, SIGNED JANUARY 6 AND FEBRUARY 1, 1938<sup>1</sup>

611.2531/247

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

[Extract]

No. 816

SANTIAGO, January 8, 1938.

[Received January 14.]

SIR: Confirming my telegram *en clair*, I have the honor to report that the new *modus vivendi* to replace that between Chile and the United States of September 28, 1931,<sup>2</sup> was duly signed at noon on January 6, 1938,<sup>3</sup> in conformity with the terms of the Department's telegraphic instructions Nos. 52, 55 and 67 of November 19, December 2 and December 31, 1937.<sup>4</sup>

There is transmitted herewith a copy of the Spanish text of the Chilean Note incorporating the *modus vivendi*, in compliance with the Department's telegraphic instruction No. 2<sup>5</sup> (which was received here bearing the date of January 3, 1938, 7 PM, but which was apparently despatched from Washington January 4, 7 PM, 1938). The original Note from the Chilean Foreign Office will be retained here pending the Department's directions as to whether it should be forwarded to Washington.

The English text of the Note incorporating the *modus vivendi* which I addressed to the Foreign Minister of Chile is identical with that transmitted to the Department under cover of my despatch No. 789, dated December 15, 1937;<sup>5</sup> with the correction of the word "national" in Clause 1 and the word "ammunitions" in Clause 5. (The words "confirms its declarations and reiterates" at the beginning of Clause 3*a* had been previously approved by the Department in the first sentence of its telegram No. 52 dated November 19, 1937.)

There are also transmitted herewith a copy of the *Aide-Mémoire* which I delivered to the Foreign Office on January 3, 1938 in accordance with the Department's telegraphic instruction No. 67 of December

<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1937, vol. v, pp. 378 ff.

<sup>2</sup> *Ibid.*, 1931, vol. I, p. 926.

<sup>3</sup> Department of State Executive Agreement Series No. 119, or 52 Stat. 1479.

<sup>4</sup> *Foreign Relations*, 1937, vol. v, pp. 416, 422, and 429.

<sup>5</sup> Not printed.

31, 1937, 6 PM; and a copy and translation of the *Aide-Mémoire* in reply delivered to me on January 4, 1938, in pursuance of the procedure approved by the Department's instruction just cited. These documents have been kept confidential.

Respectfully yours,

WESLEY FROST

[Enclosure 1]

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

AIDE-MÉMOIRE

In connection with the interpretation of item (b) of Paragraph 3 of the proposed *modus vivendi* between Chile and the United States, the Department of State by telegraph requested the American Embassy at Santiago to furnish certain explanation. In its telegraphic reply, dated November 22, 1937, the Embassy supplied the Department of State at Washington an explanation subsequently modified to meet your views and which now reads as follows:

"1) Item b) of suggested exchange provision creates a condition such that only one rate, the export draft rate, now 25 pesos to the dollar, will be applied to all American imports (from January 1st forward) so long as exchange availabilities remain adequate. If stringency occurs certain of our imports could later be made financeable by free or black market dollars at supply and demand rate. None could be obliged to be financed by dollars at higher rates. If the value of the free dollar rises further than is deemed safe in Chile recourse can be had to limiting by the system of quotas, in accordance with the terms of Article 2 of the *modus vivendi*, the importation of specified articles whose payment may have been authorized with free exchange, or recourse can be had with the same purpose to other measures of general application. The rate or rates on American imports will be the same as on imports from other non-compensation countries. Chile cannot denounce her compensation agreements offhand, and is not undertaking in the present relatively simple *modus vivendi* to negotiate comprehensively on this aspect of the thorny exchange question.

"2) Commercial Attaché supplies following explanation: While present system exchange control in effect at least two dollar sterling markets inevitable, namely export draft and free markets; and until compensation trade eliminated arbitrage impossible except between non-compensation currencies. Therefore rate inequalities between currencies will continue to feature local exchange market. When dollar sterling export draft exchange plentiful only one rate contemplated. Item (b) is designed to outlaw another arbitrary gold rate situation but to allow her use of exchange insufficient to cover demands for American products. Free exchange can be obtained only at free rates, while export draft exchange has been kept within range of 24 to 26 pesos per dollar."



The Embassy would be very grateful for a statement as to whether the foregoing interpretation accords with the views of the Chilean Foreign Office.

[Enclosure 2—Translation]

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

AIDE-MÉMOIRE

The Ministry of Foreign Affairs and Commerce has considered with great interest the explanations given by the Embassy of the United States to the Department of State at Washington embodied in the *Aide-Mémoire* of the Embassy of January 3, 1938, regarding Item *b* of article 3 of the draft *modus vivendi* at present in study.

The Ministry of Foreign Affairs and Commerce is in accord in general with the aforesaid explanations, provided the *modus vivendi* is in force for a short period, within which no fundamental modifications of the present conditions in the exchange market may be foreseen, with the understanding that, as the Embassy can comprehend, the draft *modus vivendi* does not import in reality a definitive solution of the difficulties regarding exchange which have been presenting themselves in the past.

In this understanding it cherishes the hope that within a brief time, perhaps no greater than that fixed by the terms of the provisional accord with Great Britain, the *modus vivendi* which is to be concluded with the United States should be replaced by a definitive treaty of commerce to contain provisions from which may be expected the assurance that there shall not recur the situations of scarcity of exchange for the needs of commerce which have caused the difficulties mentioned.

SANTIAGO, January 4, 1938.

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611.2531/241 : Telegram

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

WASHINGTON, January 11, 1938—4 p. m.

5. Your 80, November 22, 7 p. m.,<sup>7</sup> and 9, January 6, 1 p. m.<sup>8</sup> Please report whether *modus vivendi* signed January 6, 1938 went into force either provisionally or definitively in Chile on day of signature. If it is not now in force, when will it become effective?

HULL

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<sup>7</sup> *Foreign Relations*, 1937, vol. v, p. 417.

<sup>8</sup> Not printed.

611.2531/245: Telegram

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

SANTIAGO, January 12, 1938—6 p. m.

[Received 6:08 p. m.]

12. Department's telegram No. 5, January 11, 4 p. m. *Modus vivendi* is not yet even provisionally in force. Minister of Hacienda will issue decree placing customs clauses in provisional effect as of February 1, his powers as to customs specification arising from law 5142.<sup>9</sup> The other clauses cannot have even provisional effect until approved by Congress. Foreign Office will endeavor submit *modus vivendi* to present special session by immediate Presidential message. After approval by Congress ratifications must be exchanged between the two Governments. Will report when Franco-Chilean ratifications are exchanged. Also when Hacienda decree signed. Also congressional action if any. Foreign Office inquires when and how American Government can place *modus vivendi* in provisional or permanent effect and whether exchange of ratification will not under American law be necessary.

FROST

611.2531/249

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

No. 825

SANTIAGO, January 12, 1938.

[Received January 18.]

SIR: Referring to my telegram No. 12 of January 12, 6:00 p. m., I have the honor to transmit herewith a copy and a translation of a memorandum received today from the Foreign Office relative to the question as to when the *modus vivendi* signed on January 6, 1938 will enter in effect.

Respectfully,

WESLEY FROST

[Enclosure—Translation]

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

## MEMORANDUM

With reference to the inquiry presented to the Ministry by the Embassy of the United States of America, with regard to the date on which Chile will be able to put into force provisionally or definitely

<sup>9</sup> Chile, *Boletín de Leyes y Decretos del Gobierno* (Santiago, 1932), vol. CII, p. 213.

the Agreement signed in Santiago on the 6th day of the present month, the following should be noted:

1) The Ministry of Finance has been asked, by virtue of the rights conferred on His Excellency the President of the Republic by clause 2 of Law No. 5142, to proceed to dictate a decree putting into provisional force, beginning with the first of February next, the Convention signed with the United States of America.

2) The rights above mentioned authorize the President of the Republic to put in provisional force only the part of the Convention signed referring to customs. Therefore, the decree which the Ministry of Finance dictates will refer exclusively to the granting of the most-favored-nation clause, actually in force by the Agreement signed between the two countries on September 28, 1931;<sup>10</sup> and

3) The complete operation of the Provisional Commercial Convention depends upon its approval by the Chilean Congress. Once this is obtained, the exchange of ratifications will follow, an indispensable procedure in order that the other part (clauses) agreed upon may become effective.

SANTIAGO, January 12, 1938.

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611.2531/246 : Telegram

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

SANTIAGO, January 13, 1938—4 p. m.

[Received 6:15 p. m.]

13. Reference my No. 12, January 12, 6 p. m. Have now elicited from Garcia<sup>11</sup> oral declaration that in so far as they lie within the administrative authority of the Chilean Government the provisions on other than customs matters in the *modus vivendi*, such as exchange, will be given practical effect at once and continuously pending approval by Congress. This statement will be included in a note addressed to the Embassy by the Foreign Minister in reply to a note to be addressed to him by me making inquiry as to the legal steps respecting the entry into effect of the *modus vivendi*, if the Department approves this exchange of notes. The *modus vivendi* is thus in provisional effect already from a practical standpoint; but is not in provisional effect from the technical standpoint explained in my previous telegram.

FROST

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<sup>10</sup> *Foreign Relations*, 1931, vol. I, p. 926.

<sup>11</sup> Desiderio García, Under Secretary of Commerce, Ministry for Foreign Affairs.

611.2531/251

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

No. 828

SANTIAGO, January 15, 1938.

[Received January 21.]

SIR: I have the honor to report that the Memorandum transmitted with my Despatch No. 825 of January 12, 1938, with regard to the entry into effect of the recently signed *modus vivendi*, reached the Embassy late on the evening of the 12th instant, so that there was barely time to copy and translate it for inclusion in the airmail pouch. On the 13th instant its implications were studied attentively both by the Embassy and the Commercial Attaché; and an interview was sought with don Desiderio Garcia, who had volunteered the memorandum in reply to my simple oral inquiry based on the Department's telegraphic instruction No. 5, of January 11, 4:00 p. m.

The Embassy's first thought was that the Chilean attitude indicated bad faith. Throughout the negotiation of the *modus vivendi* the Chilean officials unquestionably gave the impression that the agreement would be given provisional effect immediately, without hinting in any way at a distinction between those provisions which related to customs matters and those which relate to other matters. The net significance of the memorandum appeared to be that by giving effect to the most-favored-nation clause Chile placed herself in a position to grant the United States the French Treaty tariff rates and thus to avoid any sanctions which might otherwise have lain at the Department's hand; while at the same time by withholding from legal effect the exchange clause, so desirable from the standpoint of the United States, Chile left her own position relatively free.

An examination of Law 5,142, however, and of the various trade agreements concluded between Chile and European countries confirms the assertions made by Señor Garcia and Señor Serrano<sup>12</sup> that the contents of the Memorandum were intended merely to indicate the technical position and not to serve notice of intention on Chile's part to exploit that position. Article 2 of the Law cited, as the Department has doubtless noted, reads as follows:—

[Here follows Spanish text.]

This may be translated as follows:—

“The President of the Republic is authorized to modify the rates fixed in the customs tariff schedules when the interests of the country render desirable the placing in effect of a commercial convention not yet ratified, and only until the ratification of the convention supervenes.”

<sup>12</sup> Alberto Serrano, of the Ministry for Foreign Affairs.

In the Embassy's judgment this language does not appear to authorize the President to place in effect a commercial accord prior to its ratification; but only to place in effect the customs concessions, or such of them as his judgment dictates, embodied in an accord not yet ratified. By a series of precedents, nevertheless, the Foreign Office has established the Article as empowering the provisional placing in force of commercial accords. For example, in the case of the French Trade Treaty of January 16, 1936, a decree was issued on February 8, 1936, under authority of the Article, modifying the Chilean customs rates appropriately, and not referring to other provisions in the Treaty, but a year later, when it became necessary to prolong the provisional effectiveness of the treaty, a new decree was issued which undertook in its terms to renew for one year the previous decree "which put into provisional effect the Commercial Convention between Chile and France". The German agreement of December 26, 1934, which contains provisions for the fixing of the exchange value of the German mark by banks, a matter which certainly has no customs aspect, was placed in provisional effect by a decree, theoretically under the authorization of the Article, and has been renewed by two subsequent decrees.

The officials of the Foreign Office maintain that these decrees, if they were challenged, would be officially stated to relate only to the customs aspects of the treaties; but they admit that the decrees have been taken by the public, and tacitly represented by the Government, as giving effect to *all* the provisions of the treaties.

Thus a condition has arisen under which Article 2 of Law No. 5,142 has come to be used to place in practical provisional effect trade agreements in their entirety of which only certain portions are related to customs; and this system has not as yet been challenged from any quarter. According to Señor García and Señor Serrano (Señor Gazitúa<sup>13</sup> is absent on leave) the Foreign Office Memorandum of January 12 was merely intended to furnish us with the legal elements underlying the effectiveness of the *modus vivendi*. The Decree to be issued by the Minister of Hacienda to place in effect the customs provisions of the *modus vivendi* as of February 1, 1938, will have the same practical effect as the decrees issued in the case of the French and German Agreements; i. e. it will in reality place the instrument in operation, although technically applying only to the customs sections.

The Chilean officials were very definite in their statements that those portions of the *modus vivendi* which can be carried out by simple administrative direction will be fulfilled at once and henceforward, and hinted that even for us to make an inquiry on this point was almost an

<sup>13</sup> Guillermo Gazitúa, official in the Ministry for Foreign Affairs charged with negotiations respecting the proposed Chilean-American trade agreement.

impeachment of their good faith. I suggested that in view of the rather special technical and administrative situation, it might be well to have an exchange of information by notes from the Embassy to the Foreign Office and vice-versa; and to this Señor Garcia agreed. Accordingly, if the Department sees fit, the Embassy will address a note to the Foreign Office incorporating the inquiries contained in the Department's telegraphic instruction No. 5 of January 11, 4:00 p. m.; and the Foreign Office will reply in a note containing the substance of its Memorandum of January 12, but also containing a declaration that those sections of the *modus vivendi* which can be given administrative effect, including the exchange clause, will receive such effect.

The Foreign Office has exhibited an earnest desire to secure an authoritative statement as to the time and manner in which the *modus vivendi* shall become effective from the American side. I have of course alluded to the fact that the American undertakings in the document merely confirm practices already legally prevailing on the part of the United States; but the Chileans feel that full information as to legal validity of the *modus vivendi* under American procedure should be at hand.

Respectfully,

WESLEY FROST

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611.2531/246: Telegram

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

WASHINGTON, January 22, 1938—3 p. m.

10. Your 12 and 13, January 12 and 13. You may say to Garcia that we appreciate the efforts of the Chilean Government to bring the *modus vivendi* into force provisionally and we are agreeable to an exchange of notes for this purpose. However, as regards the language relating to exchange, i. e. numbered paragraph 3, which he proposes for inclusion in the notes, we feel that the words "in so far as they lie within the administrative authority of the Chilean Government" are inadequate because traders would not know the extent to which the exchange provisions were in force. In this connection, you may suggest the following orally: (1) Subparagraph (a) of numbered paragraph 3 by its own terms contains only such obligations as have heretofore been assumed by the Chilean Government without approval of Congress, (2) Law 5107 of April 19, 1932<sup>14</sup> (despatch No. 1144 of April 20, 1932<sup>15</sup>) seems clearly to authorize the fixing of rates of exchange without Congressional approval, and (3) as a matter of fact, it is understood that exchange rates have been, and are at present,

<sup>14</sup> Chile, *Boletín de Leyes y Decretos del Gobierno* (Santiago, 1932), vol. CI, pp. 659-672.

<sup>15</sup> Not printed.

fixed without Congressional approval. You may then say that considering the foregoing, it seems to follow that numbered paragraph 3 can be put into force provisionally without the qualifying words quoted above.

Inasmuch as there appears to be no question but that all other provisions can be put into force provisionally under the authority of Law 5142, you are authorized, upon assurances of a reply of acceptance, to address a note to the Minister of Foreign Affairs in the following language:

“I have the honor to inform you that my understanding of our recent conversations on behalf of the Government of the United States of America and the Government of the Republic of Chile is that the provisional commercial agreement between our two Governments, effected by exchange of notes, signed January 6, 1938, shall come into force provisionally on February 1, 1938, and, unless terminated in accordance with the provisions of numbered paragraph 7 thereof, shall remain in provisional effect until ratified by the Chilean Congress, after which time it shall come into force definitively”.

Please inform the appropriate officials also that it is not necessary to exchange ratifications in order to bring the *modus vivendi* into force, either provisionally or definitively, in the United States. If they feel, nevertheless, that such exchange of ratifications is necessary from their standpoint, you may say that we will gladly give the matter further consideration with a view to working out a plan which will be satisfactory to the Chilean Government.

HULL

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611.2531/254 : Telegram

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

SANTIAGO, January 28, 1938—5 p. m.

[Received 5:24 p. m.]

16. Department's telegram No. 10, January 22, 3 p. m. Decree No. 383 giving provisional effect to *modus vivendi* under law 5142 was signed January 25 effective February 1 and will be published January 31.

Garcia assured reply of acceptance to note drafted by the Department, but he has now left Santiago again for 10 days. Chilean acceptance may point out the *modus vivendi* can remain in provisional effect only 12 months, and might lapse if Chilean Congress did not ratify within that time.

Exchange of ratifications apparently will not be necessary, but this point not yet definite.

FROST

611.2531/255: Telegram

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

SANTIAGO, January 31, 1938—4 p. m.

[Received 4:34 p. m.]

18. Department's telegram No. 10, January 22, 3 p. m. Foreign Office will accept note as drafted with additional sentence as follows: "It is understood, however, that if the ratification does not take place with[in] the period authorized by law 5142 the *modus vivendi* could be signed again so as to continue in provisional effect." Purpose is merely to harmonize formula of the note with actual legal possibilities. Please instruct.

FROST

611.2531/255: Telegram

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

WASHINGTON, February 4, 1938—4 p. m.

13. Your 18, January 31. We have no objection to the substance of the additional sentence suggested by the Foreign Office, but would prefer to have it expressed differently. We expect to print the *modus vivendi* and the exchange of notes in the United States Statutes at Large and also in a single separate document for the information of traders, members of Congress and other interested persons. Hence, since such persons do not have ready access to Chilean laws and might find it inconvenient to write for interpretations, it is especially desirable that the notes state precisely the manner and date on which the *modus vivendi* will come into force, both provisionally and definitively, and that they be self-explanatory in all respects.

Please explain the foregoing to the Foreign Office and suggest that the note quoted in my 10 of January 22 be amended by striking out all of the language after the words "January 6, 1938" and inserting in lieu thereof the following:

"shall come into force definitively 15 days after the date on which it is ratified by the Chilean Congress. Pending ratification by the Chilean Congress, the Agreement shall come into force provisionally on February 1, 1938, and, unless terminated in accordance with the provisions of numbered paragraph 7 thereof, shall remain in provisional effect until ratified by the Chilean Congress or until after the expiration of 1 year, whichever date occurs first. If the Agreement has not come into force definitively after the expiration of 1 year from February 1, 1938 it may, within the discretion of both Governments, be signed again and by this means be continued in provisional effect".

If the foregoing amendment is satisfactory to Chile, you are authorized to effect the exchange of notes as soon as possible on condition that the language of the Chilean reply is identical with that of



your note. The notes should be dated February 1, 1938, in order to avoid retroactive application.

It will be noted that under the foregoing amendment, the *modus vivendi* would come into force definitively 15 days after ratification by the Chilean Congress. The 15-day period is suggested for two reasons, namely, (1) to afford the Chilean Government an interval of time to take the necessary administrative steps, and (b) to specify a date on which the *modus vivendi* will come into force definitively.

HULL

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611.2531/257: Telegram

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

SANTIAGO, February 9, 1938—11 a. m.

[Received February 9—10:47 a. m.]

19. Department's telegram No. 13, February 4, 4 p. m. The note is now satisfactory to Foreign Office except that it prefers 30-day waiting period between ratification by Chilean Congress and definitive entry into effect. As a rule the waiting period here in practice is even longer, and the above concession to Chilean habit of procedure desirable. Please instruct.

FROST

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611.2531/260: Telegram

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

SANTIAGO, February 17, 1938—4 p. m.

[Received February 17—3:41 p. m.]

25. Department's 16, February 11, 7 p. m.<sup>16</sup> Exchange of notes dated February 1 providing entry into effect of *modus vivendi* completed yesterday in accordance with Department's instructions.

FROST

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[For text of the agreement effected by exchange of notes signed at Santiago on January 6 and February 1, 1938, see Executive Agreement Series No. 119, or 52 Stat. 1479.]

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PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT  
BETWEEN THE UNITED STATES AND CHILE

611.2531/227

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

No. 296

WASHINGTON, January 5, 1938.

SIR: Reference is made to the Embassy's despatch No. 768 of November 22, 1937,<sup>17</sup> with respect to subjects to be included in a

<sup>16</sup> This telegram stated: "Your 19, February 9. Thirty-day period is satisfactory." (611.2531/257)

<sup>17</sup> *Foreign Relations*, 1937, vol. v, p. 419.

trade agreement and in a general Treaty of Friendship, Commerce and Navigation with Chile.

The Embassy's thought that the Chilean Foreign Office will probably be desirous of proceeding at once to explore the possibilities of entering into negotiations for a reciprocal trade agreement after the conclusion of the *modus vivendi*<sup>18</sup> has been noted as has the Embassy's belief that the Chilean Government possesses a genuine and earnest desire to conclude such an agreement at an early date.

For tactical reasons, the Department considers it preferable that you not take the initiative at this time in proposing to the Chilean Government the immediate undertaking of exploratory conversations with respect to a trade agreement. However, if subsequent to the conclusion of the *modus vivendi*, you are approached by the Chilean Government in regard to the subject, you may state that this Government would be glad to explore the possibility of a trade agreement with Chile. You may reiterate to the Chilean Government the position consistently taken by this Government with respect to the basis for negotiations, and in this connection you may wish to refer specifically to the last sentence of the Department's memorandum of July 16, 1937,<sup>19</sup> which was handed to the Chilean Under Secretary of Commerce on the occasion of his visit to Washington at that time. A copy of this memorandum was forwarded to the Embassy as an enclosure to the Department's instruction No. 248 of July 19, 1937.<sup>20</sup> You should explain to the Chilean Government, however, that before this Government would be prepared to make any public announcement (such as is made in accordance with procedure here) regarding the initiation of trade-agreement negotiations, it would have to be definitely assured that the Chilean Government would negotiate upon the basis of the unconditional most-favored-nation principle as applied to all forms of trade and payments control, as set forth in the memorandum under reference. In this connection, you may also wish to refer to the last paragraph of the Department's telegram No. 55 of December 2, 1937,<sup>20a</sup> regarding the question of exchange control.

You may in your discretion recall to the Chilean Government that the acceptance of the foregoing basis for negotiation would involve the removal of any discrimination against American trade that might exist. In this connection, if you deem it advisable, you may state that the prompt removal by Chile of any discrimination that may exist would greatly facilitate any trade-agreement conversations or negotiations that might be undertaken.

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<sup>18</sup> Signed January 6 and February 1, 1938; for text, see Executive Agreement Series No. 119, or 52 Stat. 1479; see also pp. 421 ff.

<sup>19</sup> *Foreign Relations*, 1937, vol. v, p. 392.

<sup>20</sup> Not printed.

<sup>20a</sup> *Foreign Relations*, 1937, vol. v, p. 422.

With respect to the question of contiguous countries, you may state that this Government would wish to be assured also, prior to any public announcement, that the Chilean Government would not insist upon trade arrangements with such countries constituting an exception to the unconditional most-favored-nation principle as contained in a trade agreement with the United States, that is, that in such an agreement, there would be no more exceptions to that principle than those provided for in the *modus vivendi*.

You may, if you deem it useful, outline the customary procedure followed by this Government in the negotiation of trade agreements. As soon as possible after agreement has been reached upon the basis for the negotiations, a preliminary public announcement is made by this Government that negotiations are contemplated. The purpose of this announcement is to afford American interests an opportunity to present suggestions as to the products to be covered by the agreement. After an interval of not less than five weeks formal public notice of intention to negotiate is given. Accompanying the formal notice there is published a list of products on which the United States will consider granting concessions. This list, however, does not constitute a commitment by this Government to grant a concession on any of the products listed. In order to be in a position to publish such a list, it would be necessary for this Government to have a list of products on which the Chilean Government contemplates requesting concessions from the United States. This list could usefully be furnished by the Chilean Government as soon as convenient after accord has been reached on the basis for negotiations.

For the confidential information of the Embassy there is enclosed a copy of the "standard" general provisions<sup>21</sup> which have been de-

<sup>21</sup> These standard general provisions are the same as those contained in the reciprocal trade agreement between the United States and Ecuador, signed at Quito on August 6, 1938, and printed in Executive Agreement Series No. 133, and 53 Stat. 1951, except for the following article which does not appear in the Ecuador agreement:

"Article . . . . The Government of the United States of America and . . . . reserve the right to withdraw or to modify the concession granted on any article under this Agreement, or to impose quantitative restrictions on any such article if, as a result of the extension of such concession to third countries, such countries obtain the major benefit of such concession and in consequence thereof an unduly large increase in importations of such article takes place: Provided, That before the Government of either country shall avail itself of the foregoing reservation, it shall give notice in writing to the other Government of its intention to do so, and shall afford such other Government an opportunity within thirty days after receipt of such notice to consult with it in respect of the proposed action; and if an agreement with respect thereto is not reached within thirty days following receipt of the aforesaid notice, the Government which proposed to take such action shall be free to do so at any time thereafter, and the other Government shall be free within fifteen days after such action is taken to terminate this Agreement in its entirety on thirty days' written notice."

The Ecuador agreement contains in the second paragraph of article VII a statement permitting the imposition of quantitative restrictions on importations "in order to maintain the exchange value of the currency of the country", which does not appear in the standard general provisions of December 29, 1937.

veloped for use in reciprocal trade agreements. In the case of Chile, it may be considered desirable to make certain changes in these general provisions. With this in mind, it would be helpful if the Embassy were to supply the Department with its comments as to the applicability and adequacy of these provisions. There is also enclosed for the information of the Embassy a list of the subjects<sup>22</sup> usually included in a general treaty of friendship, commerce and navigation, together with a copy of the most recent instrument of this character negotiated by the United States, the Treaty of Friendship, Commerce and Consular Rights with Finland.<sup>23</sup>

Should any conversation with respect to a possible trade agreement be initiated by the Chilean Government with the Embassy, you are requested to report fully thereon to the Department.

Subject to further developments which might change its views, the Department agrees in general with the thoughts, expressed in your despatch under reference, in regard to the method of dealing with a possible treaty of friendship, commerce and navigation, as compared with a trade agreement.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

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611.2531/250

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

No. 830

SANTIAGO, January 15, 1938.  
[Received January 21.]

SIR: I have the honor to acknowledge receipt of the Department's instruction No. 296 of January 5, 1938, with regard to the possibility of entering into negotiations for a reciprocal trade agreement between the United States and Chile. The Embassy has received renewed indications that the officials of the Chilean Foreign Office are desirous of discussing a commercial accord in the immediate future; and the fact that bases for discussion are now in my hands came to the knowledge of Señor García<sup>24</sup> in connection with the conclusion of the *modus vivendi*.

The advent of warm weather has led to the departure of a number of officials on their annual holidays, including Señor Benjamin Cohen,<sup>25</sup> Guillermo Gazitúa<sup>26</sup> and (temporarily) Señor Desiderio García. In addition there may be mentioned the fact that immedi-

<sup>22</sup> Not printed.

<sup>23</sup> Signed February 13, 1934, *Foreign Relations*, 1934, vol. II, p. 134.

<sup>24</sup> Desiderio García, Under Secretary of Commerce, Ministry for Foreign Affairs.

<sup>25</sup> Director of the Diplomatic Department, Ministry for Foreign Affairs.

<sup>26</sup> An officer of the Ministry for Foreign Affairs charged with studies and negotiations regarding the proposed Chilean-American trade agreement.

ately after the signature of our *modus vivendi* the Foreign Office turned its attention again to the English and German treaties which had been receiving little consideration.

In view of these circumstances and bearing in mind the Department's allusion to the tactical position, I believe it will be well not to anticipate active discussions as to the trade agreement before the early days of February. In the meanwhile, however, I propose to discuss the text of the various general provisions furnished in the first enclosure with the Department's instruction under acknowledgment with Señor Alberto Serrano and with Señor García when the latter shall return sometime around the 20th instant. It is assumed that in suggesting comments by the Embassy as to the applicability and adequacy of these provisions the Department has in mind at least informal conversations with Chilean officials in order that useful comment may be developed.

Respectfully yours,

WESLEY FROST

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611.2531/250 : Telegram

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

WASHINGTON, January 29, 1938—1 p. m.

12. Your despatch 830, January 15, final paragraph. The Department did not intend that you should discuss the text of the general provisions even informally with Chilean officials at this time. As special conditions in Chile might necessitate changes in the "standard" provisions in a trade agreement with that country, it was the Department's desire, by its instruction 296 of January 5, to have your own comments as to the applicability and adequacy of the provisions, particularly regarding possible obstacles of a legal or policy nature which might make it difficult for Chile to accept certain of the principles or commitments embodied in the standard provisions. It was the Department's thought that it would be possible for you to ascertain whether any such obstacles do exist without discussing the exact text of the provisions with Chilean officials. Experience has shown that the presentation of a draft text, even informally, before a mutually satisfactory agreement has been reached in regard to the broad principles upon which negotiations will be based, tends to complicate and delay rather than facilitate the progress of the exploratory conversations. In this connection, should you find that you would be assisted by having further information regarding the reasons for the inclusion of any particular article in the general provisions, the Department will be glad to supply you with such information.

HULL

625.4131/19

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

No. 312

WASHINGTON, January 31, 1938.

SIR: Reference is made to your confidential despatch No. 819 of January 8, 1938<sup>27</sup> in which you refer to the negotiations for a commercial treaty between Chile and Great Britain, and request an instruction as to the course which the Embassy should follow in the possible interchange of information with the British Embassy in Santiago regarding commercial treaty and trade agreement negotiations between the United States and Chile and Great Britain and Chile.

The Department readily understands the value attaching to frank interchange of confidential information between the two embassies in Santiago, and has no objection to such action in appropriate instances provided that due care be exercised in selecting the information to be disclosed, and that the matter be handled in a discreet manner. The Department is particularly desirous, however, that the Embassy avoid any action which might lead the Chilean Government to believe that the Governments of the United States and Great Britain are taking concerted action vis-à-vis the Chilean Government. You are also requested to bear in mind in disclosing confidential information to the British Embassy on the subject of a treaty of friendship, commerce and navigation, or a reciprocal trade agreement, that this Government is now negotiating a trade agreement with the Government of Great Britain.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.2531/258

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

No. 853

SANTIAGO, February 2, 1938.

[Received February 9.]

SIR: I have the honor to acknowledge the receipt of the Department's telegraphic instruction No. 12, dated January 29, 1938, with regard to the applicability of the "standard" general provisions for a prospective trade agreement between Chile and the United States.

In the absence of Don Desiderio Garcia this matter has been discussed with Don Guillermo Gazitúa, and the latter cordially concurs in the view that preliminary discussions can best be conducted orally instead of being based on any provisional text. Accordingly the Embassy will not discuss the text of the general provisions with the Foreign Office here, but will confine its conversations to a tentative exami-

<sup>27</sup> Not printed.

nation of the various points which would be covered by the trade agreement.

The Foreign Office has already made substantial progress in studying copies of the trade agreements already in existence between the United States and other countries; and I inferred from a remark dropped by Señor Gazitúa that there will be some tendency to distrust any clauses which have not already been included in one or more of these prior agreements. I do not anticipate that this feeling will present serious obstacles in the case of clauses manifestly reasonable.

The Foreign Office, also, has undertaken an investigation of the various Chilean commodities whose sale to the United States could be considerably improved by tariff concessions on our part. It is feared that decreases in our tariff rates on Chilean products would in many instances fail to stimulate exportation because they would be generalized indiscriminately to countries which compete with Chile. I have pointed out that while Chile's relative position in the American market might not be modified, in such instances, her positive quantities of sales might be augmented. Unless the Chilean officials can reasonably hope to benefit their export trade materially by a trade agreement our negotiations with respect to equality of treatment on exchange may be affected.

Respectfully,

WESLEY FROST

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611.2531/259

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

No. 859

SANTIAGO, February 9, 1938.

[Received February 15.]

SIR: I have the honor to report that in the course of an interview yesterday with the Under Secretary of Commerce, regarding the exchange of notes as to the entry into effect of the *modus vivendi*, Señor Garcia, who has just returned from a fortnight's vacation, adverted frankly to his desire to move forward with the negotiations respecting the trade agreement. Señor Gazitúa, who was also present, mentioned the fact that the Commercial Section had been making a clause-by-clause study of the so-called Hull agreements which have already been negotiated by the United States, and has found a number of clauses which are of interest to Chile and which may probably be accepted in the immediate future as a beginning toward a Chilean-American agreement.

Señor Mario Illanes, who has been Chilean Consul in San Francisco for more than three years past, and who is now in Santiago on leave of absence, has been temporarily detailed to assist Señor Gazitúa

in this work. Both these officers are earnestly friendly to the United States, and appear to be earnestly interested in bringing about definite results at an early date.

Respectfully,

WESLEY FROST

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611.2531/256 : Telegram

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

WASHINGTON, February 14, 1938—6 p. m.

17. Your despatch No. 844 of January 26.<sup>28</sup> Inasmuch as Garcia has taken the initiative in trade agreement discussions, you may, if you have not already done so, discuss with the appropriate Chilean officials the basis for negotiations as set forth in the Department's instruction No. 296 of January 5 and telegram No. 12 of January 29, 1 p. m.

Please keep Department currently informed.

HULL

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611.2531/266 : Telegram

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

SANTIAGO, March 4, 1938—5 p. m.

[Received 5:17 p. m.]

30. Department's 17, February 14, 6 p. m. Foreign Office states it will begin conversations with Embassy on trade agreement early next week, having its proposals now at last rough drafted.

FROST

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611.2531/266 : Telegram

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

WASHINGTON, March 8, 1938—8 p. m.

22. Your despatch 880, February 23<sup>28</sup> and telegram 30, March 4, 5 p. m. Please report by telegram substance of Chilean proposals, when submitted, especially on most-favored-nation treatment and exchange control, and also on any other aspects of proposals which appear widely divergent from our position. If Chilean proposals appear acceptable on major points, preparatory work on an agreement will be accelerated here.

There is no basis for newspaper report enclosed with your despatch 880.

HULL

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<sup>28</sup> Not printed.



611.2531/270 : Telegram

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

SANTIAGO, March 12, 1938—2 p. m.

[Received 3 : 17 p. m.]

31. Department's No. 22 March 8, 8 p. m. During extensive conversation on the 9th instant with four Chilean and three American officials Garcia stated he has been unable despite earnest efforts to devise plans for according equality on exchange control and asked what the American Government requires or can suggest.

When informed of substance of Standard Provisions, article 11, he stated Chile cannot accept clause A because she never knows in advance when exchange shortages necessitating prompt resort to delays and restrictions may arise, nor clause B because of the special weakness of the peso vis-à-vis the dollar and because of her compensation agreements. He does not regard abandonment of the latter as feasible (although he left the inference it might just possibly be so in a gradual manner over a period of apparently 2 or 3 years).

I suggest that even if the compensation agreements are retained Chile might consent to allow the dollar peso rate to be set by supply and demand, as she does in the case of blocked currencies thus establishing equality of principle. Garcia felt that the peso would always be in danger and that attempts to protect it by import quotas on selected articles drawn largely from the United States but also to some extent from European countries would incur prompt retaliatory quotas in Europe against Chilean goods. The sacrifices by Chile in Europe would outweigh the advantages which a trade agreement with the United States could offer. He estimates that Chile's exports to us could not possibly be increased by more than \$1,000,000 and expressed belief that the United States is unlikely ever to place a duty on nitrate. Moreover in periods of severe and protracted dollar shortage here import quotas on nonessential goods drawn chiefly from the United States would not suffice to save the peso as goods of this class form a quite small proportion of Chile's total purchases of dollar goods (including Peruvian oil, et cetera). The conversation ended with no solution in view.

This morning I held a personal conversation with Garcia. Urged that normally the exchange shortages are not so severe, that moderate use of quotas could not suffice and that such minor losses as Chile sustained from retaliatory quotas by Germany and other European secondary supply countries would probably be offset by American Customs concessions. If periods of acute or long scarcity should arise the United States would not resent reexamination and a new agreement. Garcia caught up this point and recurred vigorously to a

previous idea which I had supposed was a private enthusiasm of Gazitua, namely, that the agreement should provide for a mixed commission which could from time to time readjust the agreement. When I expressed myself favorably he seemed much relieved and stated that with such an automatic safety device he believes a supply and demand peso with import quotas as a first recourse can at least be given serious consideration.

FROST

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611.2531/270: Telegram

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

WASHINGTON, March 16, 1938—7 p. m.

23. Your telegram no. 31, March 12, 2 p. m. A study is being made of the observations with respect to Article 11 and you may expect detailed comments in a few days.

With reference to the last paragraph of your telegram the Department, for reasons of law and policy, is unable to accord favorable consideration to setting up a commission "which could from time to time readjust the agreement". In fact it could not agree to the establishment of any commission the existence of which might be construed as a delegation of the powers conferred on the President by the Trade Agreements Act<sup>30</sup> or whose functions might conflict with those of existing American Government agencies. Nevertheless, in an effort to meet Chile's views the Department would be willing, if Chile so desires, to give consideration to setting up commissions, similar to the recently established American Brazilian Mixed Commissions,<sup>31</sup> the scope of which would be to observe the course of trade between the two countries, to observe the operation of the agreement and to report thereon to their Governments in their capacity as private bodies entirely independent of their Governments.

HULL

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611.2531/274: Telegram

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

SANTIAGO, March 21, 1938—7 p. m.

[Received 7:45 p. m.]

34. Garcia today offered after prolonged discussions and modifications the following exchange clause for the proposed trade agreement. It is very similar to the clause worked out by the Foreign Office with the British Embassy and now submitted telegraphically by the latter

<sup>30</sup> Approved June 12, 1934; 48 Stat. 943.

<sup>31</sup> See pp. 397 ff.

to London stating that "The Government of Chile and the Government of the United States of North America agree that in case there be established or maintained, directly or indirectly, any form of control of international exchange the measures which govern the subject shall apply in a manner not to make discriminations which would prejudice payments for importation or other authorized operations. Especially as relates to the acquisition of exchange needed by one of the two countries to effect payments in the other the said measures shall apply in such a manner as not to impose charges, surcharges or differential rates which are not equally applied upon exchange destined to effect similar payments to the foreign nation most favored in this respect. There are excepted from this undertaking the cases of depreciation of exchange instruments which may result from demand and supply within the compensation regimes which prevail between Chile and other countries.

Nevertheless, in no circumstances shall there be imposed measures of control which involve the use of exchange for importations or other authorized operations at rates higher than those which would be fixed by the free play of demand and supply in the market."

Essentially it is believed that this is as far as Chile will go, or can from a practical standpoint be asked to go under present circumstances. The Commercial Attaché has assisted continuously and communicates the above views.

FROST

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611.2531/275: Telegram

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

SANTIAGO, March 22, 1938—5 p. m.

[Received 6:49 p. m.]

35. Supplementing my No. 34 it now appears that British Embassy merely telegraphed the gist of the Chilean exchange proposal, not the text; but with the hope of acceptance by London.

The Department will note that Chilean offer includes most-favored-nation provision and supply and demand rate provision asking merely recognition of the fact that the low quotations here on blocked currencies are fixed by the play of the market.

If the offer should be acceptable in the main an understanding can probably be reached within a very few weeks upon which an announcement of intention to negotiate a trade agreement could be based. If not substantially acceptable any future discussions will probably be long drawn out.

Accordingly, unless the Department objects, I propose to leave Friday to visit the nitrate and copper plants and meet Ambassador

Armour at Antofogasta on April 4. Trueblood will sign "for the Chargé des Affaires."

FROST

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611.2531/279

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

No. 927

SANTIAGO, March 22, 1938.

[Received March 29.]

SIR: I have the honor to refer to my telegram No. 34 of March 21, 7 p. m., 1938 with regard to the exchange clause suggested by the Chilean Foreign Office in connection with the proposed Chilean-American Trade Agreement.

The Chilean position is based upon the necessity of maintaining Chile's compensation agreements in order to keep open European markets, and upon the necessity of maintaining an exchange control system in order to stabilize the peso against extreme and harmful fluctuations or depreciations. The British Government is understood to have recognized these two necessities; and both myself and the Commercial Attaché, as the Department is aware, are rather disposed likewise to feel that they might well receive a degree of recognition.

The proposed clause guarantees most favored nation treatment and a supply and demand exchange rate. It merely specifies that the depreciation in the exchange value here of the blocked currencies, which is due to a supply of those currencies created intentionally by Germany and other powers, does not constitute a discrimination on Chile's part; and this, from some standpoints, may be taken to be the actual fact.

The British Embassy has for the past month made the exchange clause the crucial point of its negotiations, an attitude entirely different from that which it maintained up until the middle of February. This was due to conversations resulting from the Department's Instruction No. 312, of January 31, 1938. The British took the exchange clause in our *modus vivendi* as a starting point and was then instructed, as the result of the attitude of the British Board of Trade, to insist also upon an absolute guaranty of most favored nation treatment. The Chileans were willing to concede a most favored nation pledge with the British on condition that the latter in turn should admit that the low value of the blocked currencies here does not constitute discrimination. This point had been carefully discussed between myself and the British Embassy and the conclusion had been reached that the quotations on the blocked mark here are in reality fixed by demand and supply and could not be altered by Chile even if an attempt were made to legislate against *aski* currency. The compensation agree-

ments have had no success in promoting imports into Chile, except possibly in the case of Germany. Accordingly the British Embassy accepted the Chilean stipulations.

The negotiations were hastened to a conclusion by the fact that don Agustín Edwards, Chilean Ambassador to England, who has been on leave in Chile with the express purpose of activating the general treaty settlement which has been under discussion since early last autumn, was about to depart for his post. It so happened that the British Commercial Secretary was leaving by the same boat (S.S. *Orduña*, sailing on yesterday's date); and this furnished an added incentive. The British clause was completed on the 19th instant, and its substance telegraphed to London. On the 18th Señor García had submitted a draft of it to me, and on the 21st he suggested that I work it over with him. This was done yesterday afternoon and I telegraphed the result to the Department last evening. There are enclosed herewith the copies both of our proposed clause<sup>32</sup> and of the British clause,<sup>33</sup> in Spanish and English.

As the Department would assume, I earnestly hope that the Chilean offer can receive serious and favorable consideration. I do not believe that Chile can afford to cancel her compensation agreements; as this step would cause very important trade losses, despite the fact that the Germans could and probably would continue to do a good deal of business here on a compensation basis (just as they are doing in New York to some extent with *aski* marks.) Señor Gazitúa has made estimates indicating that Chile would lose from 40 to 60 percent of her trade with Germany.

Referring to the Department's telegram No. 24, of March 19, 12 noon, 1938,<sup>33</sup> I may say that it will probably be highly desirable, or even necessary, to arrange for the existence of a Mixed Chilean-American Commission similar to the recent Brazilian-American Mixed Commission, in order to make a full success of our trade agreement negotiations. On this condition, and if the Chilean exchange clause offer is found acceptable, it will probably be possible within a very few weeks to reach an understanding with Chile on the basis of which a trade agreement could be negotiated. Several points remain to be cleared up, but the difficulties are minor. On the other hand if the exchange solution now suggested is not in its broad lines acceptable there might be some question as to the value of pursuing discussions on other phases of the proposed accord.

Not devoid of relevance in this connection is the fact that the British are now to negotiate with Chile on the various matters which in our case will be dealt with in a general treaty of amity and commerce.

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<sup>32</sup> Quoted in telegram No. 34, March 21, 7 p. m., from the Chargé in Chile, p. 440.

<sup>33</sup> Not printed.

They are endeavoring to secure national treatment in Chile for their commercial and banking firms, national treatment in Chilean waters for their steamships, etc. If the Department should find the proposed exchange clause to be substantially acceptable, and if in consequence the stage of announcing the intention to negotiate a trade agreement should shortly be reached, this Embassy could then turn to the negotiation of a general treaty and have the advantage of working synchronously with the British on the questions indicated above. To my mind this would on the whole be advantageous, as the United States and England would be more likely to induce a liberal attitude on Chile's part which would contribute to the propagation of the Hull policies in Latin America.

Respectfully,

WESLEY FROST

611.2531/277 : Telegram

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

SANTIAGO, March 24, 1938—4 p. m.

[Received 5:12 p. m.]

36. Gazitúa confidentially informed me yesterday standard provisions for trade agreement 1 to 6 and 16 to 21 are acceptable to Foreign Office while 9 and 12 to 14 are probably so. The statement as to 16 is particularly encouraging. On the other provisions the Foreign Office suggestions outlined by him seem susceptible of fairly easy negotiations. Await my air despatch No. 930 of today's date.<sup>36</sup>

Chilean Treaty Commission is expected to pass favorably on exchange clause on March 25.

Am leaving tonight to return with Ambassador April 6.

FROST

611.2531/277 : Telegram

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

WASHINGTON, March 29, 1938—11 a. m.

26. Your telegrams 34, 35 and 36, March 21, 22, and 24. The Department is considering the Chilean exchange proposal. For your own information, the proposal does not at first glance appear acceptable, but a definite and detailed reply will be sent you in a few days after receipt of your air mail despatch 930.<sup>36</sup>

HULL

<sup>36</sup> Not printed.

611.2531/280 : Telegram

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

SANTIAGO, March 29, 1938—6 p. m.  
 [Received March 29—5 : 15 p. m.]

38. Referring to my telegram No. 36, March 24, 4 p. m. and to the Department's 26, March 29, 11 a. m. Treaty Commission approved exchange proposal at meeting on March 25 and expects to reach decision on the general provisions *en bloc* at meeting on April 1.

FROST

611.2531/282

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

No. 351

WASHINGTON, April 14, 1938.

SIR: Reference is made to the Embassy's despatch No. 930, dated March 24, 1938,<sup>37</sup> and previous communications, regarding a trade agreement with Chile.

With respect to the most difficult question, that of the article on exchange control in the general provisions, the Department has for the past fortnight been giving most careful consideration to the Chilean proposal<sup>38</sup> enclosed with the Embassy's despatch No. 927 of March 22, 1938, but as yet has been unable to reach a decision. It is hoped within a short time, however, to be able to send you instructions in regard to this matter.

The two questions raised in the Embassy's despatch No. 930 on which an immediate reply is requested relate to reference number 15 of the standard general provisions, and the supplying of detailed statistics covering United States trade with Chile in 1937.

With respect to the former question, you may inform the Chilean officials that it would be impossible for this Government to include in a trade agreement any provision which would be equivalent to Article III of the proposed Sanitary Convention between the United States and Argentina.<sup>39</sup> It will be recalled that Section 306 (a) of the Tariff Act of 1930<sup>40</sup> provides as follows:

SEC. 306 CATTLE, SHEEP, SWINE, AND MEATS—IMPORTATION PROHIBITED IN CERTAIN CASES

“(a) Rinderpest and Foot-and-Mouth Disease.—If the Secretary of Agriculture determines that rinderpest or foot-and-mouth disease exists in any foreign country, he shall officially notify the Secretary of the Treasury and give public notice thereof, and thereafter, and until

<sup>37</sup> Not printed.

<sup>38</sup> Quoted in telegram No. 34, March 21, 7 p. m., from the Chargé in Chile, p. 440.

<sup>39</sup> *Foreign Relations*, 1935, vol. iv, p. 296.

<sup>40</sup> 46 Stat. 590, 689.

the Secretary of Agriculture gives notice in a similar manner that such disease no longer exists in such foreign country, the importation into the United States of cattle, sheep, or other domestic ruminants, or swine, or of fresh, chilled, or frozen beef, veal, mutton, lamb, or pork, from such foreign country, is prohibited.”

The proposal of the Chilean Government would appear to involve the necessity of modifying the foregoing section of the Tariff Act, and it is the opinion of the Department that authority does not exist, under the Trade Agreements Act or otherwise, for such modification by executive action. It would appear necessary, in order to make the modification required by the Chilean proposal, either to secure revision of the above section of the Tariff Act, requiring approval by both Houses of Congress, or to enter into a special convention with Chile, subject to ratification by the Senate, along the lines of that signed with Argentina. The possibility of either action does not appear favorable at the present time.

With respect to the request of Chilean officials for detailed statistics covering trade between the United States and Chile during 1937, it has been ascertained that such statistics are still in code books and have not been assembled or published. The transcription and assembling of these statistics, it is estimated, would require the services of one person for several weeks, and in view of the pressure of work it is not believed this can be undertaken at the present time.

The Department will, as soon as possible, instruct you with respect to the other questions concerning the general provisions of the proposed trade agreement.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

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611.2531/286a : Telegram

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

WASHINGTON, April 22, 1938—7 p. m.

35. The Department has given long and earnest consideration to the exchange article proposed by Chile. Fully realizing the difficulties which Chile feels it must overcome in order to accord equality of treatment to the United States, a determined effort was made to utilize the proposal at least as a basis to work out a mutually satisfactory formula. Notwithstanding the sympathetic approach thus accorded the Chilean suggestion, the Department has reluctantly reached the conclusion that the principle incorporated therein of excepting discriminatory practices arising from compensation trade is so at variance with the policies and established practices of this Government that the proposal must be considered as wholly unacceptable.



Therefore the Department must insist upon an exchange article the bare minimum of which would provide for satisfactory conditions as concerns rates and allocations of exchange when compared with the treatment granted any third country, particularly compensation countries.

The Chilean proposal in our view falls far short of what we could consistently accept since it would permit not only of a continuation but also of an extension of the arbitrary diversion of Chilean exports from their natural channels, which condition is directly responsible for the discriminations complained of in the past, namely discriminating rates of exchange quota or exchange limitations applied primarily against American products and arbitrary purchases of goods in compensation countries in order to utilize accumulated blocked balances. These practices without being carried in the past to the extremes possible in the future have been the cause of grave concern to this Government. A formal agreement not providing assurances in respect of these practices could be interpreted only as a sanction thereof by this Government to which you may inform the authorities the Department cannot agree.

The views of this Government on bilateral trade balancing are too well known to necessitate restatement here. The Department is confident that Chile also must realize fully the ultimate adverse effects upon its own economy should all countries apply this principle. The realization of this, it is felt, should animate the Government of Chile to seek its gradual, if not immediate, withdrawal from a system so detrimental to the present and future development of world trade.

The Department is now drafting for discussion with the Chilean authorities a proposal which while constituting a substantial recession from the original proposal is in line with the views expressed above. Any indication of what further Chile could offer to meet these views either immediately or gradually would be welcome.

WELLES

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611.2531/287

*Memorandum of Conversation, by the Counselor of Embassy in Chile (Frost)*<sup>41</sup>

SANTIAGO, April 26, 1938.

Mr. Trueblood and myself last evening visited Señor García, who was attended by Señores Serrano and Gazitúa, to impart to the Foreign Office the Department's attitude regarding the exchange clause which they had worked out. I had previously given him an idea of

<sup>41</sup> Transmitted to the Department by the Ambassador in Chile in his despatch No. 9, April 27; received May 4.

the tenor of the Department's telegram<sup>42</sup> by telephone; and he had also just received a visit from the British Ambassador, with whom you had conversed on the subject. (Sir Charles Bentinck was leaving as we entered, and expressed himself briefly to me as very pessimistic and as greatly concerned regarding the future prospects of his negotiations, which as you know are parallel to ours.)

I handed to each of the Chilean officials a transcript of the telegram, although not prepared in such form as to indicate that it followed the actual text received from the Department. Upon reading it Señor García paused for a moment and then said very simply that he could not see any possibility of reaching an arrangement if Chile must give up her compensation trade. Señor Serrano launched into an eloquent exposition on the indispensability of Chile's exports to Germany. He adverted particularly to the fact that the Chilean growers of lentils, beans and other products would have no advance assurance each year of a market, whereas at present they can count upon the quantities which it is safe for them to produce.

I inquired whether it would not be possible for compensation trade to exist without its being facilitated by the compensation *convenios*, stating that presumably the German desire to sell merchandise in this market would induce German purchases of Chilean products, even if the Chilean Government did not actively assist in the arrangements. Chile's trade with Japan and Ecuador is carried on in such a way, with virtual but not formal compensation. Señor García maintained that under the *convenios* the Chilean Government does not extend any real assistance; as the quantities of the various articles to be exchanged are fixed by Germany and the rate of the blocked mark is fixed by the banks from day to day in accordance with the supplies on hand. He stated that the agreements consisted merely of offers by Germany too advantageous for Chile to refuse, but accompanied with conditions imposed by Germany which Chile could not modify. He felt that if they were given up the Germans would have less confidence in the operation of the system and would therefore cease to provide as large outlets for Chilean commodities as at present.

Señor García was surprised at the Department's use of the word "discrimination", as he stated he had been expressly informed during his conferences in the Department last summer that the unilateral nature of the coercion applied by Germany to Chile was understood at Washington. He also mentioned the phrase "diversion of exports", and stated that the exports to Germany are not diverted by the *convenio* but rather are created by it, as they would not be made at all if Germany did not arrange for them. With regard to the stabilization by Chile of the export draft rate for the dollar, he said that the

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<sup>42</sup> *Supra.*

Germans have asked Chile to stabilize the blocked mark in the same way, at a point approximating the supply-and-demand rate, in order that its fluctuation might be avoided; but said that Chile prefers not to touch a blocked currency which it regards as abnormal and precarious.

In concluding the interview I suggested that after two or three days of reflection we confer again, with your presence, and endeavor to develop new suggestions which could be submitted to the Department. He replied that of course he is always ready to discuss the matter but that he understood from the Department's telegram that Washington will now in its turn present a proposal.

Today Mr. Trueblood has had a telephone conversation with Gazitúa, who states that García is anxious to save Chile's agricultural exports, whose principal takers are Germany and the compensation countries. It seems to me that a statement from the Department in simple and concrete terms as to just what it wishes Chile to do would be very helpful at the present juncture.

W[ESLEY] F[ROST]

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611.2531/287: Telegram

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

WASHINGTON, May 9, 1938—7 p. m.

39. Last paragraph, Department's telegram no. 35, April 22, 7 p. m., and your despatch no. 9, April 27.<sup>43</sup> For your confidential information, certain major policy questions have arisen in connection with exchange proposal under consideration for presentation to the Chilean Government, and a further delay is anticipated. Please inform the Chilean officials that the Department's proposal will be presented as soon as possible.

HULL

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611.2531/306

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

No. 237

SANTIAGO, August 31, 1938.

[Received September 6.]

SIR: I have the honor to refer to despatch No. 56 of May 20, 1938<sup>44</sup> with regard to an informal conference held at the Embassy on the Chilean-American exchange situation, and to the promise given at that time by the Under Secretary of Commerce, Señor Desiderio García, that a memorandum reviewing the Chilean position on the problems discussed would be prepared. There are enclosed herewith

<sup>43</sup> See footnote 41, p. 447.

<sup>44</sup> Not printed.

a personal letter and an accompanying memorandum dated August 27, 1938<sup>45</sup> and delivered on August 29, 1938 in compliance with Señor García's promise. The memorandum constitutes the first general exposition of the Chilean point of view which has been presented since the similar one dated July 11, 1936 forwarded with despatch No. 261 on July 15, 1936.<sup>46</sup> It contains little new material, but rehearses quite fully the various factual elements deemed important by the Chilean Government, together with the attitude held respecting them.

Basically the Under Secretary of Commerce appeals very earnestly once more for an appreciation of the difficulties of the Chilean position. The memorandum expresses the belief "that a commercial treaty between the two nations should be in the nature of a practical and permanent bond which would permit the development of an economic interchange to mutual advantage;" and concludes with a cordial offer to afford hearty cooperation in making available information or in conducting joint studies. While the general emphasis is upon ways and means for obviating the scarcity of American exchange, Señor García and his assistants have repeatedly expressed in conversations their earnest hope that the commercial agreement may be attained.

The transmitting letter, it will be noted, refers once more to the suggestion made to me by don Germán Vergara, the Under Secretary of Foreign Affairs, as mentioned in the memorandum enclosed with my despatch No. 96 of June 11, 1938,<sup>45</sup> to the effect that the exchange clause be omitted from the text of the commercial agreement itself, and be treated in a separate protocol.

Further comments as to the enclosures with the present despatch will be submitted in the near future, together with any further information that may be forthcoming in talks with officials of the Foreign Office which it is anticipated will take place in the next few days. In the meantime, however, I have thought it well to place the enclosures in the hands of the Department as promptly as possible.

Respectfully yours,

NORMAN ARMOUR

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611.2531/312a

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

No. 100

WASHINGTON, December 5, 1938.

SIR: Reference is made to preliminary discussions which have been proceeding for several months on the question of an exchange

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<sup>45</sup> Not printed.

<sup>46</sup> *Foreign Relations*, 1936, vol. v, p. 355.

article for use in a possible trade agreement between the United States and Chile, and in particular to your despatch no. 237 of August 31, 1938 enclosing a letter and memorandum from the Chilean Under Secretary of Commerce on trade and exchange difficulties between his country and the United States. The Department has also received a despatch from the Embassy at London, dated August 24, 1938, as well as your despatch no. 247 of September 7, 1938,<sup>47</sup> on the question of an exchange article in an Anglo-Chilean commercial agreement.

As you are aware, the Department has for some time been giving close study to the question of an exchange article for Chile, not only in connection with a possible trade agreement with that country, but also in relation to the article on the same subject which might be included in future agreements with certain other countries. Closely related also, and more fundamental, has been the question of this Government's basic position with respect to exchange control measures, trade carried on under clearing agreements, and special currencies. This study has now been completed.

On the basis of the study, a proposal on exchange control has been made in the form of a draft article for use in a possible trade agreement with Chile. There is enclosed herewith, for presentation to the Chilean officials, a copy of this proposal which should be substituted for reference no. 11 of the "standard" general provisions enclosed with the Department's instruction no. 296 of January 5, 1938. In drafting the proposal, this Government has taken fully into account and has given the most sympathetic consideration to the position of the Chilean Government set forth in the memorandum<sup>48</sup> enclosed with your despatch no. 237 referred to above, particularly the contention that exchange difficulties in Chile are the result of forces beyond the control of that Government, and that the measures that have been adopted to meet those difficulties, to the extent that they result in situations unfavorable to American commerce, represent merely that Government's effort to protect the economy of the country in view of the types of trading methods which have been forced upon Chile by certain European nations. It is believed that the enclosed proposal is better adapted to the Chilean situation than is reference no. 11 of the "standard" general provisions.

The enclosed proposal deals with both allocations and rates of exchange in respect of imports from the other country and provides generally for fair and equitable exchange treatment for the nationals and commerce of the other country. This general pledge covers, therefore, treatment with respect to remittances on investments and other non-commercial items, as well as for trade transactions.

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<sup>47</sup> Neither printed.

<sup>48</sup> Not printed.

Sub-paragraph (a) provides for most-favored-nation treatment, on a like article basis, with respect to any prohibitions, restrictions, conditions, delays, taxes or surcharges which may be imposed in connection with payments for imports. The words "Without prejudice to the provisions of sub-paragraph (c) of this Article" have been included in sub-paragraph (a) for the purpose of removing any possibility of conflict with the provisions of sub-paragraph (c), which covers any system of exchange allocations by countries or by articles. To illustrate, if a system of exchange allocations by countries were to be established by either Government, thus involving the provisions of sub-paragraph (c), a fair share would have to be set aside to cover imports from the other country. It might happen, however, that imports from such other country had been so large as to result in demands for an amount of exchange greater than that to which imports from that country would be entitled by the proportional system provided for in sub-paragraph (c). At the same time, imports from a third country might not have been so large as to result in the exhaustion of its exchange quota, and a situation might result whereby exchange to pay for imports of a certain article would be granted for imports of that article from the third country, while imports of the like article from the other country party to the Agreement were being denied exchange on the grounds that its total exchange quota under (c) had been exhausted. In such a case, if the words quoted above were omitted, the question would arise whether the provisions of sub-paragraph (a) or those of sub-paragraph (c) should apply. By including those words, this difficulty would not arise, as the provisions of sub-paragraph (c) would then clearly be applicable to the situation.

In addition to the foregoing explanations of our interpretation of sub-paragraph (a) it should be pointed out to the Chilean officials that in the event that a restriction, condition or prohibition were imposed upon or in connection with payments for imports of an article or articles from the United States, a similar restriction, condition or prohibition would be simultaneously imposed upon or in connection with payments for imports of the like or similar article or articles from all other countries, including countries from which the article or articles might be imported on a compensation basis or against payment effected by clearing.

It will be noted that sub-paragraph (b) relates only to rates of exchange *controlled* by either Government. This means that this Government would be prepared to accept the existing exchange system in Chile, under which, because of factors of supply and demand, the exchange rates for certain currencies which are not controlled by the Chilean Government, may prove more, or less, favorable for imports paid for in such currencies than for imports to be covered by dollar

exchange at the controlled rate, that is, at present, the fixed export draft rate. In view of the Chilean Government's declarations regarding the abolition of exchange control measures affecting the transfer of payments for articles the growth, produce or manufacture of the United States, it should be pointed out to the Chilean authorities that, pending the abolition of such measures and with particular reference to the assurances in paragraph 3, sub-paragraph (b) of the *modus vivendi* of January 6, 1938, this Government would expect the Chilean Government to continue to "avoid exchange control measures involving the use of exchange at rates higher than those which would be set by the free supply and demand of the market". We interpret these assurances as implying that the Chilean Government intends to avoid the application of any differential rate, such as the former "lavadero" rate, to the importation of certain products from the United States.

Sub-paragraph (c) of the enclosed proposal is intended to afford protection for the other country's trade if either Government should allocate exchange by countries or articles, by providing that exchange shall be allocated upon the basis of the proportion of total merchandise imports, or of total imports of particular articles, as the case may be, which such other country supplied in a previous representative period. This sub-paragraph also provides that any special trade factors which may exist shall be taken into account in making exchange allocations on the foregoing basis; that the minimum period for which allocations may be made shall not be less than three months; and that the exchange allocated to the other country shall be made available in such a manner as to facilitate its full utilization during the period for which the allocation is made. It is believed that these latter provisions are self-explanatory.

Sub-paragraph (d) provides for non-discriminatory treatment in the application of exchange control as between the nationals of the United States or Chile and the nationals of any third country.

In presenting the enclosed exchange proposal to the Chilean Government, you may mention that while your Government is naturally hopeful that it will be accepted, it does not consider that such acceptance would in itself clear the way for trade-agreement negotiations. The Department believes it of importance that substantial agreement be reached on all other questions of importance which might arise during the course of negotiations, before public notice is given of intention to negotiate a trade agreement with Chile. Accordingly, you may, in your discretion, discuss with the Chilean authorities other questions related to the general provisions, in order that as complete agreement as possible may be reached during the present preliminary discussions. Should the Chilean officials express any objections to the substance of the enclosed exchange proposal, you should report these promptly to the Department.

Reference is made to the Embassy's despatch no. 930 of March 24, 1938.<sup>49</sup> It is noted from that despatch that the Chilean Government was provisionally prepared to accept without question or modification, references 1 to 6, inclusive, and references 16 to 21, inclusive, of the "standard" general provisions. This understanding should be confirmed, and at the same time the Chilean officials should be informed that unless the Chilean Government is particularly desirous of having the "third-country" Article, reference no. 19, included in an agreement, this Government would prefer to eliminate it from further consideration.

You will have noted that the proposed new exchange article does not include an "escape" clause similar to the last paragraph of reference no. 11 of the standard general provisions. In view of the effort which has been made to meet the views of the Chilean Government in regard to the exchange article, it is considered essential that reference no. 18 of the general provisions, which would apply to the entire trade agreement, be broadened and strengthened, particularly with a view to providing the greatest possible protection for the concessions to be included in the schedules of the proposed trade agreement. Accordingly, the substance of the last paragraph of reference no. 11 (with which the Chilean Government is already familiar) has been incorporated in a revised draft of reference no. 18, duplicate copies of which are enclosed. In discussing this revised draft with the Chilean authorities you should stress the fact that its provisions are reciprocal.

With respect to the Chilean observation regarding reference no. 7, on dutiable value, you should stress the fact that the provisions of that Article are intended to offer the very stability of appraisal methods apparently desired by the Chilean Government. You should request a detailed explanation of the assurances desired by the Chilean Government, in addition to those already embodied in the present draft provision.

With respect to the Chilean observation regarding reference no. 8, it is deemed essential that items included in schedules of concessions be protected generally against the imposition of quantitative restrictions. The absence of any such protection would, of course, permit the serious impairment or nullification of any of the duty reductions or bindings in an agreement, and would even permit imports of the products in question to be placed in a considerably less favorable position than that existing prior to the agreement. Other Governments with which trade agreements have been concluded have agreed to include provisions similar to reference no. 8 for protection against import prohibitions or restrictions on products on which concessions have been granted, and it is believed that the absence of such protection in any

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<sup>49</sup> Not printed.



agreement which may be negotiated with Chile would not only render unstable the concessions to be secured, but also set a most undesirable precedent.

There are enclosed copies of simplified versions of the two quota articles which may be substituted for reference nos. 8 and 9 in your further discussions with the Chilean officials. If this substitution is made, you should also substitute the enclosed revised draft of reference no. 12, the most-favored-nation article. The first paragraph of this revised draft is identical with reference no. 12 of the standard general provisions and the second paragraph, which has been added, is considered essential in view of the simplified form of the enclosed revised draft of reference no. 9.

In connection with reference no. 12 and the Chilean observation thereon, the Department is unable to see any substantive difference between the language used in Article X of the Costa Rican agreement<sup>50</sup> and that used in reference no. 12 of the "standard" general provisions. As a matter of style, the Department much prefers the language of the "standard" provisions. The Department does not understand the meaning of the phrase in the pertinent portion of your despatch under reference which reads "supplemented by the last clause in the standard provisions draft". What might be considered as the last clause in the "standard" provisions draft is included in Article X of the Costa Rican agreement.

The Department will await the views of the Nitrate Sales Corporation regarding reference number 10 and further word from the Chilean officials regarding reference numbers 13 and 14.

The request of the Chilean Government with respect to reference number 15 is one to which the Department has already given consideration, and in this connection reference is made to instruction no. 351 of April 14, 1938.

With regard to the question of a Mixed Chilean-American Commission, the establishment of which would, according to the Embassy's despatch no. 930 of March 24, 1938, be expected by the Chileans in connection with the conclusion of a trade agreement, reference is made to telegram no. 23 of March 16, 1938. If the Chilean officials raise this question again, you may give them the substance of that telegram.

In the course of your discussions with the Chilean authorities regarding a possible trade agreement, you should point out to them, if you have not already done so, that, under the requirements of the Trade Agreements Act, public notice of intention to negotiate a trade agreement must be given in the United States before definitive negotia-

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<sup>50</sup> Signed November 28, 1936; for text, see Executive Agreement Series No. 102, or 50 Stat. 1582.

tions may be undertaken with any country. The preliminary public announcement referred to on page 3 of the Department's instruction no. 296 of January 5, 1938 is not required by law and this announcement is no longer made. This Government will be prepared to discuss with the Chilean Government the time when the required public notice might be given in the case of the proposed trade agreement between the United States and Chile as soon as agreement in principle has been reached in respect of the general provisions. The Chilean Government doubtless will appreciate, therefore, the desirability of expediting, as much as possible, consideration of the remaining problems in connection with those provisions.

In order further to expedite this matter, an interdepartmental "Country Committee" has been established, in accordance with the usual procedure, for the purpose of giving careful consideration to the products involved in the trade between the two countries. As you know, this Government will expect the Chilean Government to consider the relaxation of its trade barriers in respect of the products of which the United States is the principal or an important supplier of Chilean imports. The American Government will be prepared, of course, to give similar consideration, within the limitations of the Trade Agreements Act, to the products of which Chile is the principal or an important supplier of this country's imports.

It is hoped that the Chilean Government will indicate at an early date its acceptance in principle not only of the enclosed proposal on the exchange article but also of the remaining articles of the draft general provisions. You may, therefore, inform the Chilean authorities at an appropriate time that a "Country Committee" has been established for the purpose indicated in the foregoing paragraph. It would seem desirable to suggest, in this connection, that the Chilean Government prepare a list of products of which Chile is the principal or an important supplier of United States imports and on which concessions would be desired in the proposed trade agreement.

Very truly yours,

For the Acting Secretary of State:

FRANCIS B. SAYRE

[Enclosure 1]

Reference No. 8

*Revised Draft of Article of Trade Agreement Relating to  
Quantitative Restrictions on Schedule Items*

Articles the growth, produce or manufacture of the United States of America enumerated and described in Schedule I and articles the growth, produce or manufacture of the Republic of Chile enumerated and described in Schedule II, shall be permitted to be imported into

the territory of the other country without any quantitative restriction. Nevertheless, quantitative restrictions may be applied by either Government to the importation of the aforesaid articles if such restrictions are imposed in conjunction with governmental measures operating to regulate or control the production or prices of like domestic articles, or tending to increase the labor costs of production of such articles. However, the Government which proposes to establish or change such import restrictions shall give at least thirty days' advance notice to the other Government. If an arrangement regarding the proposed measures is not agreed upon before the expiration of such period such other Government may, within fifteen days thereafter, terminate this Agreement in its entirety on thirty days' written notice.

[Enclosure 2]

Reference No. 9

*Revised Draft of Article of Trade Agreement Relating to  
Quantitative Restrictions*

In the event the Government of the United States of America or the Government of Chile regulates imports of any article in which the other country has an interest either as regards the total amount permitted to be imported or as regards the amount permitted to be imported at a specified rate of duty, the government taking such action shall establish in advance, and give public notice of, the total amount permitted to be imported from all countries during any specified period, which shall not be shorter than three months, and of any increase in such amount during the period, and if shares are allocated to countries of export, the share allocated to the other country shall be based upon the proportion of the total imports of such article from all foreign countries supplied by the other country in a previous representative period, account being taken in so far as practicable in appropriate cases of any special factors which may have affected or may be affecting the trade in that article.

[Enclosure 3]

Reference No. 11

*Revised Draft of Article of Trade Agreement Relating to Exchange  
Control*

In the event that the Government of the United States of America or the Government of Chile establishes or maintains, directly or indirectly, any form of control of the means of international payment,

it shall, in the administration of such control, assure the commerce and nationals of the other country fair and equitable treatment. To that end, it is agreed :

(a) Without prejudice to the provisions of subparagraph (c) of this Article, no prohibition, restriction, condition, or delay, nor any tax or surcharge shall be imposed in connection with payments for or payments necessary and incidental to the importation of any article the growth, produce or manufacture of the other country, which is not imposed in connection with payments for or payments necessary and incidental to the importation of the like article the growth, produce or manufacture of any third country.

(b) Whenever the rate of exchange in connection with payments for or payments necessary and incidental to the importation of any article the growth, produce or manufacture of the other country is controlled by either Government, such rate shall not be less favorable than any rate controlled in connection with payments for or payments necessary and incidental to the importation of the like article from any third country.

(c) In the event that the Government of either country allocates exchange among countries of export or by articles, the share of the total exchange made available for all merchandise imports or for all imports of particular articles which is allocated to cover payments for or payments necessary and incidental to the importation of articles the growth, produce or manufacture of the other country during a specified period shall be based upon the proportion of total merchandise imports, or of total imports of particular articles, as the case may be, which such other country supplied in previous representative years, account being taken of any special factors which have been or may be affecting the trade; the specified period referred to above shall not be shorter than three months; and the exchange allocated to the other country shall be made available in such a manner as to facilitate its full utilization during the period for which the allocation is made.

(d) With respect to noncommercial transactions, any form of control of foreign exchange shall be applied in a nondiscriminatory manner as between the nationals of the other country and the nationals of any third country.

[Enclosure 4]

Reference No. 12

*Revised Draft of Article of Trade Agreement Relating to Most-Favored-Nation Treatment*

1. With respect to customs duties or charges of any kind imposed on or in connection with importation or exportation, and with respect

to the method of levying such duties or charges, and with respect to all rules and formalities in connection with importation or exportation, and with respect to all laws or regulations affecting the sale, taxation or use of imported goods within the country, any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America or the Republic of Chile to any article originating in or destined for any third country shall be granted immediately and unconditionally to the like article originating in or destined for the Republic of Chile or the United States of America, respectively.

2. Neither the United States of America nor the Republic of Chile shall establish or maintain any import or export prohibition or restriction on any article originating in or destined for the territory of the other country which is not applied to the like article originating in or destined for any third country. Any abolition of an import or export prohibition or restriction which may be granted even temporarily by either country in favor of an article originating in or destined for a third country shall be applied immediately and unconditionally to the like article originating in or destined for the territory of the other country.

[Enclosure 5]

Reference No. 18

*Revised Draft of Article of Trade Agreement Relating to General Provision to Safeguard Concessions*

In the event that the Government of the United States of America or the Government of Chile adopts or changes any measure or practice which, even though it does not conflict with the terms of this Agreement, is considered by the Government of the other country to have the effect of nullifying or impairing any object of the Agreement, the Government which has adopted or changed any such measure or practice shall consider such written representations or proposals as the other Government may make with a view to effecting a mutually satisfactory adjustment of the matter. If within thirty days after the receipt of such representations or proposals, a satisfactory adjustment has not been made or an agreement has not been reached with respect to such representations or proposals, the Government making them may, within fifteen days after the expiration of the aforesaid period of thirty days, terminate this Agreement in its entirety on thirty days' written notice.

611.2531/313

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

No. 437

SANTIAGO, December 23, 1938.

[Received December 30.]

SIR: I have the honor to acknowledge receipt of the Department's instruction No. 100 of December 5, 1938, with regard to an exchange article for use in a possible trade agreement between the United States and Chile and in general to our Government's attitude in connection with negotiations looking toward such an agreement.

On receipt of the instruction, and in my absence from Santiago, the Counselor of the Embassy called on Don Desiderio García, Under Secretary for Commerce, and brought the contents of the Department's instruction together with its enclosure to his attention. At the same time Mr. Frost explained to Don Desiderio that he was leaving shortly for Lima and he felt sure that the Secretary of State and other officials of our Government interested in this question would be glad to know the Chilean Government's reaction to the proposals set forth in the Department's instruction.

On December 21 last, following my return, I called myself on Don Desiderio, accompanied by the Counselor of the Embassy, and discussed this matter further with him. Señor García showed a deep sense of appreciation of the careful study and consideration given by the Department to this matter and in particular to the attitude of our Government in recognizing that compensation currencies in a large measure are imposed on Chile and not contrived by her. Señor García stated that he believed that the position taken by our Government as set forth in the above instruction opens the way for negotiations of a trade agreement, although, to be sure, it is not yet known, and I think Señor García himself does not know, whether he will continue on under the new government in his present position.

During our conversation we discussed the exchange provisions clause by clause. On clause (a) he is worried by the possibility that when there is exchange shortage, and export draft exchange is not immediately available for American imports, the resulting "delay" might be construed to have been "imposed" by Chile. As a matter of fact Señor García pointed out that the delay will arise merely from shortage, and it would be impossible for Chile to avoid it. In clause (b) he mentioned the word "controlled" which in Spanish, as the Department is aware, means regulated, whereas in English it means dominated. The compensation currencies in Chile are fixed by supply and demand, but the manner in which the supply and demand operate is regulated, or "controlada", by their *convenios*. Señor García assumes that clause (b) refers to rates of exchange which are domi-

nated or fixed by Chile, and not those which are fixed by supply and demand, without any domination, albeit under regulation. As to clause (c) Señor García feels that Chile, as well as the United States, must have in mind the possibility that the supplies of free exchange,—dollar, sterling, kroner, etc.,—may fall so low that it will be impossible to do more than provide for Chile's indispensable imports from the United States, such as petroleum, cotton, etc.

The exchange shortage in Chile is growing worse, and is going to present a difficult problem during the next few weeks. It is possible that there will be no free exchange for American automobiles, radios and silk stockings for a time, although Señor García admits that this is not imminently probable. Under clause (c) Señor García would be interested in learning whether Chile would be forced, if she denied or cut down exchange for American non-necessary articles, to deny or greatly cut down exchange for such articles from the compensation countries. It is assumed that our Government would not take such a position as Chile would have no possibility of allocating or controlling the exchange from the compensation countries.

Respectfully yours,

NORMAN ARMOUR

## COLOMBIA

### EXPRESSIONS OF GOOD WILL AND OF DESIRE FOR COOPERATION BETWEEN THE UNITED STATES AND COLOMBIA

711.21/930 : Telegram

*The Ambassador in Brazil (Caffery), Temporarily in Colombia, to  
the Secretary of State*

Bogotá, August 9, 1938—7 p. m.

[Received August 10—6 a. m.]

50. For the Under Secretary. President Santos in an informal conversation this afternoon made several interesting observations. (1) He could not have emphasized more strongly his desire for cooperation and understanding in all fields with us; (2) at the Lima Conference<sup>1</sup> the Colombian delegation will go through the motions of supporting the plan for a league of American nations but as he informed the Dominican Special Ambassador today will not insist on its adoption. He himself realizes that the plan is not practicable at this time; (3) the British Minister here and Sir Thomas Hohler saw him today and urged him to ask for a British naval mission here. He parried their suggestion and will not accept it; it is his intention after waiting sufficient time for the matter to die down to ask for an American naval mission. He remarked that he hoped (and I was able to assure him our own policy coincided with his views) that an American naval mission would not encourage the sale of armament here. In this connection he mentioned the case of two Swiss missions here, one a communication mission which had unloaded more than a million dollars of worthless material on them; the second an aviation mission which had sold planes which had been acquired in France and had paid duties, et cetera; (4) he spoke of Japanese, German and Italian activities in this region and expressed a desire to pursue a policy along lines in that connection satisfactory to us; (5) he hopes to open in due time the question of raising his Legations at Washington and Rio de Janeiro to Embassies; (6) he would like to see a more practical development of the activities of the Pan-American Union; (7) he is opposed to the institution of a Pan-American Court of Justice; (8) he strongly desires to see more American capital enter the country and will welcome an expansion of American industrial activity in Colom-

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<sup>1</sup> See pp. 1 ff.



bia. However he hopes that American companies operating here will cooperate with him in an effort to raise the standard of living of the Colombian laborers and that the companies will realize that their own best interests reside in a sincere effort to understand the Colombian viewpoint and to assist in the Government's efforts to increase the general prosperity of the nation; (9) he expressed gratification with the visit of American aviators here (who by the way conducted themselves with much decorum and dignity); (10) he emphasized his confidence in you and that [you?] will understand his general point of view.

CAFFERY

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711.21/930 : Telegram

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

WASHINGTON, August 12, 1938—2 p. m.

43. From the Under Secretary. Telegram No. 50, August 9, 7 p. m., signed by Caffery. Please seek an early interview with the President for the purpose of conveying to him the particular interest and appreciation with which I learn of the policies he intends to pursue during his administration and which are of interest to this Government. In the course of your conversation you may inform the President (1) that we are of course as desirous as he for expanded cooperation and improved cultural relationship between Colombia and the United States; (2) that it was a source of much gratification to learn of his intention at an opportune moment to request a United States Naval Mission, and that it is a fundamental tenet of policy that our military and naval missions abroad not engage in the promotion of the sale of military or naval supplies; (3) that his views with regard to foreign activities were received with deep interest; (4) that we will be glad to examine with him at his convenience the possibility of raising the Legation at Washington to an Embassy; and (5) that his attitude with regard to the investment of foreign capital was greatly appreciated and that we share with him the hope that American companies will show industrial statesmanship by cooperating in every possible way, in order to improve the standard of living of Colombian labor, as well as to assist the Government's efforts to increase the general prosperity of the country as a whole. Finally, you may state to the President that it will be a pleasure for me to cooperate in every practicable manner with him and that in this regard I can speak in a similar sense for the President and the Secretary of State. [Welles.]

HULL

821.012/21 : Telegram

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

BOGOTÁ, November 18, 1938—10 a. m.

[Received 2:35 p. m.]

73. The following communication dated November 16, 1938, from the President of the Senate has just been received through the Foreign Office:

"I have the honor to transmit to Your Excellency the report of the Foreign Affairs Committee of the Senate regarding the request made to the latter by Isaac Gutierrez Navarro, a Colombian citizen:

"On request of the Senate's action, Honorable Senators, the memorial presented to this body by Señor Isaac Gutierrez Navarro, a Colombian citizen resident at Bogotá requesting that as an exceptional instance and in view of his great merits, Colombian citizenship be conferred upon the President of the United States, Mr. Franklin D. Roosevelt, has been referred for study to the Foreign Affairs Committee.

To the Foreign Affairs Committee, as to the majority of our compatriots, the figure of the North American statesman is one of the greatest and most noble of our epoch. His work as the defender of democracy, as the paladin of justice and right, and as a bold and equitable reformer of the laws and political customs within his country, is and for a long time will be of exceptional significance. In a few years, without disorders or agitations, Roosevelt with outstanding civic valor and the austere purity of an apostle has caused a transcendental revolution unequalled on any continent or by those who, believing themselves to be the sole revolutionaries, begin by despoiling men of their attributes of dignity and the people of the liberties indispensable to their harmonious spiritual and material development. And this prodigious domestic task has not deprived him of the desire or time to labor constantly and decisively in maintaining universal peace which each day is threatened with greater violence by the collision of ideologies and apparently incompatible interests and is least well defended by the egoism of the old potencies.

With respect to the American republics, the policy called that of the good neighbor, which President Roosevelt preaches and practices with firm loyalty as the application of democratic principles internationally, has completely eliminated the justifiable resentments produced by the opposite policy and has stimulated the question and effective binding of the peoples of America on the basis of cordial sincerity, mutual understanding and present and future solidarity. We are living in a period of confident tranquillity and optimistic hope, thanks to President Roosevelt's policy, and such sentiments cannot but greatly influence general prosperity and the consolidation of an atmosphere of fraternity and peace. Now is when the continent with strong strokes reveals its moral physiognomy and confirms its historic destiny by showing itself as a land of humanity, tolerance and foresight in the midst of the successive crises which have set a proud culture to the domination of force.

The Foreign Relations Committee believes that imminent events such as the reunion of the Lima Conference will bring to a practical

and resounding culmination the valiant attitude of President Roosevelt, restorer of inter-American friendship and the directing spirit of the vast movement tending to revivify in America traditional faith in democracy, justice and liberty for all, when these substantive ideas, without which progress is a fleeting lie, suffer the rudest attacks in history.

Based upon these considerations, and it not being within the radius of the Senate's constitutional rights to render a decision upon the basic request of the one who presented the memorial, your committee takes the liberty to propose the following declarations:

The Senate of Colombia: expresses its gratitude and admiration to Franklin D. Roosevelt, President of the United States of America, for his effective defense of democratic ideas and systems, for his intervention to safeguard peace within and without the continent, and for the loyal and constant carrying out of the 'good neighbor' policy which is based upon respect of the sovereignty of all peoples.

In the name of the Republic of Colombia the Senate confirms its desire to continue to serve the principle of American solidarity which has inspired the international policy of President Roosevelt.

Communicate this to the President of the United States through the conduct of the American Embassy at Bogotá and publish it."

Foreign Office has been informed this note has been telegraphed to Department for the President.

GREENE

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821.012/22 : Telegram

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

WASHINGTON, November 25, 1938—1 p. m.

72. Your telegram no. 73, November 18, 10 a. m. The President directs that the following acknowledgment be made to the President of the Senate:

"I have received the gracious and eloquent message from the Senate of Colombia with deep personal gratitude and I am profoundly appreciative of the honor which has been conferred upon me. The cordial spirit which inspired this generous manifestation could not but impress me anew with the realization of the identity of the democratic ideals of our two nations, and of our common determination to join with our American neighbors in perfecting understanding and friendship among the Republics of the New World.

I should be happy to have you convey to your eminent colleagues of the Senate of Colombia my personal thanks and my cordial good wishes. Franklin D. Roosevelt."

This message may be conveyed through the Foreign Office should you deem this course appropriate. The President desires that you likewise call on the President of the Senate to express appreciation on his personal behalf.

HULL

821.012/23

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

No. 2469

BOGOTÁ, December 2, 1938.

[Received December 13.]

SIR: I have the honor to acknowledge the receipt of the Department's telegram No. 72 dated November 25, 1 p. m., transmitting a message from President Roosevelt to the President of the Colombian Senate.

The message was conveyed immediately through the Foreign Office which replied in a communication dated November 30, received today, stating that the President's message had been forwarded to the President of the Senate.

I was unable to call on the President of the Senate personally to comply with President Roosevelt's desire for me to express appreciation on his personal behalf as the President of the Senate at the close of the session on November 17 returned to his residence in Ibagué, some distance from Bogotá.

Respectfully yours,

WINTHROP S. GREENE

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**AGREEMENT BETWEEN THE UNITED STATES AND COLOMBIA  
PROVIDING FOR A MILITARY AVIATION MISSION, SIGNED  
NOVEMBER 23, 1938**

[For text of the agreement, signed at Washington, see Department of State Executive Agreement Series No. 141, or 53 Stat. 2084.]

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**AGREEMENT BETWEEN THE UNITED STATES AND COLOMBIA  
PROVIDING FOR A NAVAL MISSION, SIGNED NOVEMBER 23, 1938**

[For text of the agreement, signed at Washington, see Department of State Executive Agreement Series No. 140, or 53 Stat. 2074.]

## COSTA RICA

### ATTITUDE OF THE UNITED STATES TOWARD THE ACQUISITION OF COCOS ISLAND FROM COSTA RICA

818.014C/94

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

No. 34

WASHINGTON, January 4, 1938.

SIR: In reply to your despatch no. 107 of December 22, 1937,<sup>1</sup> reporting an invitation to visit Cocos Island in company with a number of Costa Rican officials and in which you refer to the possible purchase of Cocos Island by this Government, I wish to inform you that the Department has for a number of years consistently replied to inquiries regarding possible purchase of the Island, that this Government has no interest in acquiring it. In that connection you should refer to the memoranda which were transmitted to the Legation with instruction no. 41 of May 21, 1934,<sup>1</sup> as well as an instruction dated November 21, 1934<sup>1</sup> to the American Consul in San José. You should be guided by this information in the event that the possible purchase of Cocos Island by the United States should be discussed with you by any officials of the Costa Rican Government.

In the event that the invitation for you to visit Cocos Island should be renewed, I believe that you should bear in mind the possibility that this visit might give rise to embarrassing newspaper speculation regarding our interest in the Island. In any event, it is not desired that the Naval Attaché of the Legation should accompany you on such a trip, and it is not desired that any effort be made to arrange for transportation to the Island on a vessel of the United States Navy.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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818.51/718

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

WASHINGTON, January 28, 1938.

The Minister of Costa Rica called to see me this morning, ostensibly to tell me of the recent developments in the negotiations which the

<sup>1</sup> Not printed.

coffee producing American republics had been having. He said that some six or seven of the republics had now definitely reached an agreement that exportation quotas on coffee must be unanimously agreed to as the necessary basis before any stabilization in the world coffee market could be found. He said that he had been glad to find that these countries had adopted a reasonable point of view with regard to their own exportation quotas and that he had also been encouraged by seeing in the press that the Brazilian Government had indicated its belief that a fair world quota for Brazil would be fifteen million bags. On such a basis as this, he said, a general agreement would be feasible. He told me that he would continue to keep me informed of developments.

The Minister then turned to another subject, which I assume was the real reason for his visit. He said that his Government was greatly disturbed by its inability, because of the collapse of the coffee market, to carry out the agreement which he had reached with the Protective Council of Foreign Bondholders for the servicing of the Costa Rican foreign debt. He said that there was some opposition in the Congress to the agreement itself but that a sufficient majority was in accord with the President, and that the agreement was reasonable and should be carried out. Until and unless, however, coffee prices went back to the higher rate which they had reached four or five months ago, the Government of Costa Rica, he alleged, could not carry out the servicing of the debt in accordance with the terms of the agreement. For that reason, the Government of Costa Rica was interested in knowing whether the Island of Cocos, which was of no use to the Government of Costa Rica, would not be of interest to the Government of the United States in connection with plans for the defense of the Panama Canal. If this Government were interested in the purchase, the money paid could be set aside to service the foreign debt.

I told the Minister at once that his predecessor had discussed this matter with me some three years ago and that I then replied, by direction of the President, that it was the definite policy of this Government not to acquire further territory on this continent and that from the standpoint of strategic importance, the President, after consultation with the naval and military authorities of the Government, had reached the conclusion that Cocos Island was of no importance from a strategic point of view. The Minister said that he fully understood and that he wanted me to realize that what he had said was in no sense an official and definite proposal but merely an informal inquiry to ascertain our point of view. I told the Minister that I so regarded his inquiry, but that he could regard my statement as a definitive statement of policy on our part.

S[UMNER] W[ELLES]

818.014C/95

*The Secretary of State to Senator Morris Sheppard*<sup>2</sup>

WASHINGTON, February 15, 1938.

MY DEAR SENATOR SHEPPARD: I have received your letter of January 18, 1938,<sup>3</sup> and appreciate your kindness in consulting with me regarding a proposal which has been made to you to introduce legislation for the purchase from Costa Rica of Cocos Island.

In as much as the Navy Department does not consider the island as of strategic value so long as it remains under the sovereignty of Costa Rica, this Department has consistently replied to suggestions for the purchase of the island that this Government has no interest in acquiring it. Therefore, the introduction of a bill for the purchase of the island would not appear necessary at this time; moreover, it might have unfavorable repercussions in other American republics.

For your strictly confidential information, while this Government is not interested in acquiring the island itself, any endeavor on the part of any foreign power to purchase or lease the island or to use it as a naval or military or air base under whatever terms would be a matter of immediate concern.

This reply has been submitted to the Acting Director of the Budget, who informs me that his office has no objection to its submission to you.

In accordance with your request, I am returning the enclosures to your letter of January 18, 1938.

Assuring you that I appreciate your courtesy in bringing this matter to my attention, I remain,

Sincerely yours,

CORDELL HULL

818.014C/99

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

No. 152

SAN JOSÉ, February 16, 1938.

[Received February 24.]

SIR: I have the honor to refer to my despatch No. 107 of December 22, 1937<sup>3</sup> and to the Department's instruction No. 34 of January 4, 1938, in reply, and to report as follows:

Mr. George Curtis Peck, former Commercial Attaché to the Legations of the United States of America in Central America, and later Economist for the Inter-American Highway, called at the Legation on

<sup>2</sup> Chairman of the Military Affairs Committee of the Senate.

<sup>3</sup> Not printed.

February 15, 1938, to advise me of the alleged plan on the part of German interests, with the aid of the Japanese, to acquire Cocos Island. I thereupon requested Mr. Peck to prepare a memorandum with respect to his conversations with Mr. Carlos Madrigal, a copy of which I enclose for the Department's information.<sup>5</sup>

The fact that Mr. Madrigal in his statement to Mr. Peck indicated that there would be strong opposition among the new Costa Rica deputies to any proposals from the United States for the purchase of the Island, casts some doubt in my own mind as to the accuracy of some of the other assertions made by him. In this connection it is worthy of comment that while serving as Minister of Finance, Mr. Gurdíán, who is now alleged to be interested in the present project, suggested such a sale to Mr. Peck and indicated the cancellation of the debt owed by Costa Rica to American bondholders as a possible basis for arriving at a price. I am further unable to believe that Mr. Gurdíán, in view of his past political experience, could visualize the American Government permitting, without a vigorous protest, the sale of the Island to any company dominated by either Japanese or German interests. While the enclosed memorandum may contain considerable fiction, it may also state some facts which may be worthy of consideration by our military and naval officers entrusted with the defense of the Canal Zone.

In view of the Department's instruction No. 34 I regard it an imprudent for me to assign to any member of the Legation staff the task of checking on the truth or falsity of the statements made by Mr. Madrigal for the reason that even a casual inquiry emanating from the Legation would in all probability revive rumors to the effect that the American Government may be interested in the purchase of the Island. However, any new information obtained on this subject will be promptly reported.

In addition to the statements contained in the enclosed memorandum, Mr. Peck advised me that some time ago he was informed by a friend of his in Washington that Senator Sheppard of Texas has in mind the introduction of a bill in Congress providing for the purchase of Cocos Island by the American Government. His informant also stated that Senator Sheppard had been in communication with Secretary Swanson<sup>6</sup> on this subject.

Respectfully yours,

WM. H. HORNIBROOK

<sup>5</sup> Not printed.

<sup>6</sup> Claude A. Swanson, Secretary of the Navy.



818.014C/104

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

No. 522

SAN JOSÉ, December 29, 1938.

[Received January 5, 1939.]

SIR: I have the honor to refer to my despatch No. 107 of December 22, 1937, to the Department's instruction No. 34 of January 4, to my despatch No. 152 of February 16, 1938, and to report as follows:

In a conversation under date of December 27, Major General David Lamme Stone stated that after making a thorough inspection of Cocos Island, in company with Rear Admiral J. W. Wilcox, he had agreed with the latter as to the necessity of making a joint report to the War and Navy Departments urging the early purchase or lease of Cocos Island from the Costa Rican Government. The General added that the report was now in course of preparation and would be despatched to Washington in the near future.

According to General Stone, it was the judgment of the senior army and naval officers who made a recent trip to the Island that its purchase or lease is absolutely vital to the defense of the Panama Canal. He stated that there are two points on the Island which could easily be converted into bases for sea planes, and as an outpost for the defense of the canal it is essential to control these potential bases of operation. He first suggested the outright purchase, but later stated that a long term lease of the Island, in whole or in part, would answer the purpose of the army and naval authorities entrusted with the defense of the Zone.

I may add that the General stated in confidence that from the standpoint of troops, airplanes, concrete roads, housing facilities and by-passes around each lock, the canal is inadequately defended, and asserted that no commanding officer could feel at all secure in providing for its defense unless these needs are speedily remedied.

The General expressed the fear that sooner or later German, Japanese or Italian interests may launch a commercial air service in Central America in competition with the Pan American Airways, and, in such event, add to the problem of providing for the proper defense of the Zone. He was particularly concerned in regard to the potential air field which the Japanese have acquired by lease under the guise of a cotton growing project in the vicinity of Puntarenas. The leasing of this property was reported in my despatch No. 236 of May 9, 1938,<sup>7</sup> and photographs of the same have since been taken by the clerk assigned to the office of the Military Attaché of this Legation. These photographs confirmed prior reports which the General had received to the effect that the property had in fact been acquired by the Japanese as a possible landing field.

Respectfully yours,

WM. H. HORNIBROOK

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<sup>7</sup> Not printed.

CUBA  
DISCUSSION REGARDING A SUPPLEMENTAL TRADE AGREEMENT  
BETWEEN THE UNITED STATES AND CUBA

611.3731/1883

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] October 18, 1938.

The Cuban Ambassador<sup>1</sup> called to see me this evening. The Ambassador brought up the question of the revision of the Trade Agreement<sup>2</sup> and said that by his instruction the appropriate officials in the Cuban Government were seeking to determine what additional concessions Cuba could offer to the United States and what points in the existing Trade Agreement which were giving rise to friction between the two Governments might well be modified in any new agreement.

I told the Ambassador that our desire was to limit the revision so far as might be possible in order that it might be considered a revised agreement and not a new agreement. I said that the points we now had under consideration were an increase in the reduction of duty which could be granted Cuba on sugar under the provisions of the Trade Agreement Act;<sup>3</sup> the restitution to Cuba of benefits on tobacco which Cuba had obtained in the original agreement; and certain other questions, such as the excise tax on Cuban rum, et cetera.

The Ambassador said the chief concession to the United States which his Government had in mind was an increased advantage on American-grown rice.

I told the Ambassador that I had seen from some of the telegrams sent recently by Mr. Beaulac<sup>4</sup> that the President of Cuba apparently had it in mind that the announcement of the intention of both Governments to revise the Trade Agreement could be made immediately, that is, before the settlement by the Cuban Government of its obligations to the two American creditor groups. I told the Ambassador that this was out of the question; that no announcement of any kind could be made until after November 8 and that I was not certain how soon after that date it would be possible to agree upon the steps preliminary to such announcement. The Ambassador said he fully

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<sup>1</sup> Pedro Martínez Fraga.

<sup>2</sup> Signed August 24, 1934, *Foreign Relations*, 1934, vol. v, p. 169.

<sup>3</sup> Approved June 12, 1934; 48 Stat. 943.

<sup>4</sup> Willard L. Beaulac, First Secretary of Embassy in Cuba.

understood this and had so stated emphatically to the President of Cuba.

I took occasion to tell the Ambassador how deeply gratified I was by the results of his trip to Cuba and that it seemed to me that a basis now existed for a satisfactory and fair solution of the matters regarding which he and I had been so much concerned during these recent weeks. I concluded by saying that our very earnest desire was to continue to cooperate in every possible way to the advantage of Cuba and to the advantage of the interests of the two countries and that if Cuba was now prepared to do her share, as seemed evident from what the Ambassador told me, I felt many advances could be made which would be highly beneficial to the peoples of both countries. The Ambassador seemed personally greatly satisfied with the result of his conversations in Habana and entirely relieved as to his own situation vis-à-vis his own Government.

S[UMNER] W[ELLES]

611.3731/1708a

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

No. 592

WASHINGTON, November 2, 1938.

SIR: The trade-agreements organization is giving active consideration to the desirability of early revision of the trade agreement with Cuba. In this connection it is giving particular attention to the possibility of providing a new concession to Cuba on tobacco and a larger concession with respect to the import duty on sugar, as well as all other aspects of the existing trade agreement, adjustment of which may be found necessary or desirable.

The reopening of negotiations under the time schedule contemplated would involve the making of public announcement before the middle of the present month, with a view to completing negotiations as early as possible in January. It is contemplated dispensing with the so-called preliminary announcement which has been issued in the case of recent trade-agreement negotiations. The first announcement would be the formal announcement of intention to negotiate and would be accompanied by a list of products under consideration for the granting of concessions to Cuba.

The trade-agreements organization is reviewing all aspects of the existing trade agreement with Cuba, with a view to formulating all matters consideration of which will be found necessary or desirable in connection with the proposed negotiations. Since the views of the Embassy, the Consulate General and the Office of the Commercial Attaché will obviously be invaluable in assisting the trade-agreements organization in reaching its conclusions, you are requested to submit to the Department at the earliest practicable date a report embodying

the views of the Embassy, the Consulate General and the Office of the Commercial Attaché with respect to the matters which should be included in the scope of the proposed negotiations.

Since the public announcement would, under the procedure contemplated, be accompanied by a list of products to which consideration for the granting of concessions to Cuba would be limited, it will be necessary to decide prior to the issue of such announcement, what products should be included in such listing. It may be that the entire Schedule II of the existing agreement, as signed would be thus listed. In contemplation of the possibility, however, that it might be found advisable to include only a part of that Schedule in the list of products, the Department desires, as of immediate urgency, to have your views as to what products in that Schedule, in addition to sugar and tobacco, should not fail to be included. The Department desires with like urgency to have your recommendations as to what, if any, additional products, not included in Schedule II of the existing agreement, would warrant listing as being the subjects of possible concessions to Cuba. The publication of this list in connection with the announcement of intention to negotiate a trade agreement is for the purpose of affording a definite and inclusive indication, to the public concerned, of all products which may form the subject of changes in our tariff rates as a result of the negotiations; the inclusion of any product in the list, however, does not imply any commitment that a change in the rate will be made, as definite decisions in that respect are not made until after the public hearings.

While no similar listing of Schedule I products accompanies the public announcement of intention to negotiate, the Department desires to receive from you an enumeration of the other subjects, including Schedule I items and general provisions, which in your opinion should without fail be included within the scope even of limited negotiations. Such enumeration is urgently desired in order that it may be considered in reaching a decision as to whether the public announcement should convey any indication of limitation of the scope of the negotiations additional to that involved in the publication of the Schedule II list.

A report from you on the above-mentioned matters of immediate urgency is desired as promptly as possible after the receipt of this instruction, to be followed as soon as convenient thereafter by a more complete report of your views on all aspects of the subject.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

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[For text of the notice of intention to negotiate a supplemental trade agreement, issued on November 30, 1938, see Department of State, *Press Releases*, December 3, 1938, page 398.]

ASSISTANCE OF THE DEPARTMENT OF STATE IN EFFORTS TO SECURE  
A SETTLEMENT OF THE CUBAN PUBLIC WORKS DEBT

837.51 Chase National Bank/739a : Telegram

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

WASHINGTON, February 7, 1938—2 p. m.

14. After careful consideration of the interests of the several American creditors in the so-called Public Works Bill <sup>5</sup> the Department has concluded to make no representations to the President of Cuba <sup>6</sup> in his consideration of whether or not to approve the bill as passed by both houses of the Congress.

It would seem entirely proper for you to request an audience with the President for the representatives of Purdy and Henderson and Warren Brothers, but in view of the purpose of these representatives it is believed that the President might derive a mistaken impression of the attitude of this Government were a representative of the Embassy to be present at the interview.

You are requested to leave the following memorandum with the Cuban Ambassador: <sup>7</sup>

“In view of the provisions of the bill which has been passed by both houses of the Congress for the settlement of the so-called Public Works obligations, <sup>8</sup> the Government of the United States considers it desirable to manifest at this time to the Cuban Government its expectation that the Cuban Government will undertake a prompt settlement of the obligations of certain American creditors not included in the pending settlement, and that the obligations to be given them will be of a character no less favorable in their security and maturity than those to be given other creditors if the pending bill becomes law. Moreover, the Government of the United States takes this opportunity to express its confidence that any further investigation of the claims of one category of such creditors will be concluded at a very early date.”

In presenting this memorandum you should make it clear that this is in no way to be construed as indicating any endorsement on the

<sup>5</sup> Approved February 14, 1938; for text, see Cuba, *Gaceta Oficial*, February 19, 1938; English translation in Foreign Bondholders Protective Council, Inc. *Annual Report, 1938* (New York, 1939), pp. 387-417.

<sup>6</sup> Federico Laredo Bru.

<sup>7</sup> Pedro Martínez Fraga.

<sup>8</sup> These obligations resulted from the execution of a program of public improvements authorized by a law of July 15, 1925. After the general default by the Cuban Government in 1933, the public works debts included the following items: serial certificates held by the Chase National Bank, \$867,000; bonds held mostly by the general American public, \$40,000,000; bank credit of Chase Bank syndicate \$20,000,000; gold notes held by Warren Brothers Co., \$9,800,000; gold notes held by others, \$10,200,000; port notes held by Warren Brothers Co., \$1,050,000; claim of Purdy & Henderson for building the capitol building in Havana, \$1,500,000. Warren Brothers Co. of Boston had constructed 481 miles of the Central Highway running from Pinar del Rio to Santiago de Cuba between 1927 and 1931. (837.51 Chase National Bank/731, 758)

part of this Government of the inclusion within the bill of other creditors than those whose security rests upon pledged public works revenues.

HULL

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837.51 Chase National Bank/752 : Telegram

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

HABANA, February 11, 1938—5 p. m.

[Received 7:13 p. m.]

16. Notwithstanding the message for the Cuban Ambassador contained in your telegram No. 14 of February 7, 2 p. m., which I delivered to him and of which I understand that he informed the President, the President today informed the lawyer for Purdy, Henderson that in his opinion the claim of the bondholders was perfect while that of the bank credits was open to suspicion but must be met on account of their importance to Cuba's credit, that neither Purdy, Henderson nor the *obligacionistas* had any right to consideration in the public works settlement and that the debts due them, while of good repute, should be included in the floating debt.

I have arranged for Brownson<sup>9</sup> and Feustman<sup>10</sup> to interview Martinez Fraga on Monday the 14th but they naturally resent this statement and bespeak such support as I can give them. Have you any additional observations or instructions for me in that connection?

WRIGHT

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837.51 Chase National Bank/752 : Telegram

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

WASHINGTON, February 12, 1938—2 p. m.

18. Your telegram no. 16 February 11, 5 p. m. Our position with respect to the Warren Brothers and Purdy and Henderson claims would appear to be sufficiently defined in the memorandum contained in the Department's telegram no. 14, February 7, 2 p. m. so that no further statement would now appear necessary. As indicated by Duggan<sup>11</sup> during your telephone conversation with him this morning, you should, however, continue to correct any misapprehensions which may appear to exist as to our views concerning the character of the obligations to be given in an early settlement of these two claims.

HULL

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<sup>9</sup> Leonard E. Brownson, Jr., Vice President of Purdy & Henderson.

<sup>10</sup> B. T. Feustman, representative of Warren Brothers Co.

<sup>11</sup> Laurence Duggan, Chief of the Division of the American Republics.

837.51 Public Works Debt/13 : Telegram

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

HABANA, April 22, 1938—1 p. m.

[Received 2:55 p. m.]

34. For the attention of the Under Secretary.<sup>12</sup> Pujol<sup>13</sup> today informed Feustman that it has now been decided that on account of domestic, political and economic conditions settlement of Warren Brothers matter will be deferred until bonds of the 85 million issue have been registered, listed and in circulation.<sup>14</sup> The balance of 9 million odd dollars remaining from this issue will be used as security for bank loan for funds to relieve situation arising from low sugar prices.

Pujol further said that Warren Brothers will be fully protected "if they do not make hostile moves or lose their heads" apparently referring to possible action against registration of the bonds.

Pujol said he would confirm this in writing to Feustman on Sunday and that he intends to call upon me tomorrow to explain foregoing. Feustman has telephoned Gow<sup>15</sup> today.

WRIGHT

837.51 Public Works Debt/52 : Telegram

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

HABANA, June 24, 1938—10 p. m.

[Received 11:45 p. m.]

49. For the Under Secretary of State. Tentative agreement reached today between Crafts,<sup>16</sup> Brownson and Pujol for settlement of Warren Brothers obligations at 80 and port notes at 60 in the new emission of bonds, and also of Purdy, Henderson claim as per previous agreement at 80 in both 85 million dollars issue, all subject to Government ratification. Pujol appears confident of his ability to obtain Government ratification. Crafts will be informed on Tuesday next of Government decision when Brownson settlement seems assured.

WRIGHT

<sup>12</sup> Sumner Welles.

<sup>13</sup> Guillermo Alonso Pujol, President of the Cuban Senate and chairman of a commission appointed under the law of February 14 to study the claims of Warren Brothers, Purdy & Henderson, and other claims.

<sup>14</sup> For documents relating to this process, see Foreign Bondholders Protective Council, Inc., *Annual Report, 1938*, pp. 450 ff.

<sup>15</sup> Charles Gow, President of Warren Brothers Co.

<sup>16</sup> Frederick A. Crafts, senior counsel for Warren Brothers Co.

837.51 Public Works Debt/70 : Telegram

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

HABANA, July 26, 1938—3 p. m.

[Received 7:28 p. m.]

72. Crafts and Brownson appeared this morning before the three members of the Public Works Debt Commission now in Habana. Although professing no knowledge whatever of any of the agreements or arrangements made by Pujol, the Commission undertook to carry above matters through with the utmost dispatch, and Fraga, as chairman, stated that he had made arrangement to hold Congress until August 8 or 10 for the passage of necessary legislation. No date set for next hearing and Crafts will remain only as long as necessary.

Principal danger is that the Commission may purposely delay proceedings; second, that the Government may refuse to recognize necessity of immediate adjustment of this matter; third, that the Secretary of the Treasury,<sup>17</sup> who appears offended at previously being ignored in this matter, may recommend postponement of the settlement.

WRIGHT

837.51 Public Works Debt/85 : Telegram

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

HABANA, August 4, 1938—9 a. m.

[Received 12:10 p. m.]

76. My despatch 981 and telegram No. 75.<sup>18</sup> The Secretary of the Treasury called upon me yesterday afternoon at the request of the President. After confidentially alluding to the same unfortunate factors to which the President had referred he stated that under the law the present Public Works Debt Commission could not function until a Speaker of the House was chosen to act ex officio as President of the Commission in the absence of the President of the Senate.

He assures me that when that office shall have been filled the Commission will meet to consider the claims of Purdy [&] Henderson and Warren Brothers and will then hear representatives of both. He promises to accord every consideration to my suggestion that some means be found whereby letters may be exchanged with Warren Brothers but gives no assurance that such can be done. I informed Crafts and Brownson accordingly.

<sup>17</sup> Manuel Giménez Lanier.<sup>18</sup> Neither printed.



I improved the opportunity to advance various suggestions as to utilization of balance of the recent issue of bonds and of the seigniorage in order to strengthen Cuba's sagging credit but without much apparent success as both are stated to be pledged to new public works and of balancing the budget.

WRIGHT

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837.51 Public Works Debt/125 : Telegram

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

HABANA, October 5, 1938—8 p. m.

[Received 10 p. m.]

106. The Secretary of State<sup>19</sup> told me this morning that General Montalvo<sup>20</sup> early last year informed the Cuban Government after conferring with Mr. Welles that the United States would confer additional economic benefits upon Cuba if an adjustment was made with the holders of the public works bonds. This information was confirmed by the Cuban Ambassador. He said the Cuban Ambassador informed his Government later that Mr. Welles fixed as an additional condition a settlement of the bankers credit and that subsequently both Mr. Welles and President of the United States had congratulated him on the settlement with the bondholders and bankers reached in February. He said that until the settlement approved by Congress in February the Cuban State Department had received the distinct impression from the Cuban Ambassador that our Government considered the settlement with Warren Brothers and Purdy & Henderson much less urgent than with the bondholders and bankers. He recalled, however, that following the settlement with the bondholders and bankers in February Ambassador Wright had urged upon him a settlement with Warren Brothers and Purdy & Henderson and that the Cuban Ambassador in Washington had continued to urge such a settlement since that time.

I told the Secretary of State that I did not understand how such an interpretation of our attitude could have been reached because the Embassy's files show that the United States from the beginning took the position that it desired equal treatment and fair treatment for all the public works creditors and that Ambassador Wright had repeatedly impressed this upon Cuban officials.

Dr. Remos was uninformed concerning the Cuban Ambassador's recent commitment to the court in Boston<sup>21</sup> to reach an agreement before November 15. Dr. Remos said that the Cuban Ambassador was not authorized to make such a commitment.

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<sup>19</sup> Juan J. Remos.

<sup>20</sup> Rafael Montalvo, then Cuban Secretary for Defense.

<sup>21</sup> District Court of the United States for the District of Massachusetts before which the bankruptcy case of Warren Brothers was pending.

I urged upon Dr. Remos in the same terms recently used with other Cuban officials the need of immediate action to settle the remainder of the public works debt. Dr. Remos expressed appreciation of my frank exposition of the situation and said that he would communicate my views to the President and let me know his reaction.

BEAULAC

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837.51 Public Works Debt/125 : Telegram

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

WASHINGTON, October 6, 1938—noon.

74. Your 106, October 5, 8 p. m. The statement made by you to the Cuban Secretary of State as reported in the second paragraph of your telegram under acknowledgment is an entirely accurate presentation of the position consistently taken by this Government in the matter.

It is hardly necessary for me to add that no such statements have been made by me, either to General Montalvo or to the Cuban Ambassador, as those alleged by the Cuban Secretary of State in your conversation with him yesterday. The point of view I have expressed to the Cuban Ambassador and to the other Cuban officials with whom I have talked during the past year has been that the relationship between Cuba and the United States was necessarily a reciprocal relationship; that the United States was prepared and disposed to cooperate in every possible way along economic and commercial lines with the Cuban Government to the advantage of both nations; but that such policy as this could not be merely one-sided. I have stated that it was inconceivable that public opinion in the United States would support this Government in the policy which it has been carrying out toward Cuba unless Cuba at the same time met her just and fair obligations to nationals of the United States. There has never been any indication by me of "additional economic benefits" as a *quid pro quo* for an adjustment on the part of Cuba with its bondholders. I have, on the contrary, limited myself to pointing out that it was in Cuba's own interest to rehabilitate her national credit and to make possible a continuation of a close and friendly reciprocal economic policy between the two countries by paying her just debts. The attitude invariably taken by the Department has been that this Government desired equal treatment for all of the creditor groups and not preferential treatment for one particular group.

I am seeing the Cuban Ambassador and General Montalvo today and shall request them to correct immediately any misinterpretation which has been given to any conversations I may have had with them in the past.

WELLES

837.51 Public Works Debt/128 : Telegram

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

HABANA, October 6, 1938—6 p. m.

[Received 8:14 p. m.]

108. I saw Colonel Batista<sup>22</sup> this afternoon and urged upon him in similar terms to those used in previous conversations with Cuban officials Cuba's need of immediately arriving at a settlement with its remaining public works creditors. Colonel Batista reiterated what Dr. Remos had said about our having differentiated between the claims of the bondholders and bankers and the claim of Warren Brothers and Purdy & Henderson and said that the political and economic difficulties Cuba faces are too great to permit a settlement with the remaining creditors at this time. When I asked Colonel Batista if I might tell the Department that he fully understood the difficulties Cuba might face particularly with the American Congress if its credit were not restored promptly but that the internal difficulties in the way of prompt settlement by Cuba were so great that they could not be overcome, Colonel Batista replied that I might say that he doubted that Cuba could make prompt payment to these creditors but that he would speak to President Laredo and to members of the Debt Commission and urge that an early study be made of the means of reaching agreements with those creditors.

Your telegram No. 74, October 6, noon, arrived after my conversation with Colonel Batista. Notwithstanding the observations you say in the last paragraph of your telegram you are making to the Cuban Ambassador and General Montalvo, I shall if you approve see Secretary of State and Colonel Batista again and reiterate the attitude you have consistently taken as outlined in your telegram.

BEAULAC

837.51 Public Works Debt/130 : Telegram

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

HABANA, October 7, 1938—6 p. m.

[Received 7:30 p. m.]

110. I saw the President this afternoon and urged upon him in similar terms to those used in previous conversations with Cuban officials the importance, from Cuba's point of view, of immediate settlement of the remainder of the public works debt. I also made clear to him the attitude toward the public works creditors which you have consistently taken as outlined in your telegram No. 74, October

<sup>22</sup> Fulgencia Batista, Chief of Staff of the Cuban Army.

6, noon. I also communicated to him the observations set forth by you in our telephone conversation this noon.

The President said that Dr. Remos' and Col. Batista's version of the American Government's attitude in allegedly differentiating among the various classes of creditors agreed with his own. He said that he clearly understood now, however, that there had been no such differentiation.

The President said that he could not bear to contemplate the plight of the Cuban people if the economic benefits received from the United States were taken away from them and that he would call a Cabinet meeting and urge immediate settlement of the remainder of the public works debt.

Our conversation was very frank and very friendly and he expressed appreciation of our Government's interest in Cuba's welfare.

BEAULAC

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837.51 Public Works Debt/133: Telegram

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

HABANA, October 11, 1938—1 p. m.

[Received 4:17 p. m.]

113. For the Under Secretary. My telegram No. 110, October 7, 6 p. m. Ambassador Martinez Fraga returned here from Washington Saturday October 8. He called this morning to say that the President and Colonel Batista had now agreed to payment of Warren Brothers and Purdy & Henderson in unallocated bonds of the series exchanged for public works bonds but that the President believes that an announcement of intention to revise the trade agreement<sup>23</sup> should be made first in order that public opinion in Cuba should be better prepared to receive his message to Congress requesting authorization to make payment in the bonds. The Ambassador says that Colonel Batista does not attach the same importance to the need for such prior announcement of intention to revise the trade agreement. The Ambassador says that he will continue to urge the President to send the message to Congress immediately without waiting for any announcement with reference to the trade agreement.

I naturally pointed out to the Ambassador the extent to which Cuba's hand would be strengthened by its having completely settled its public works debt and expressed the opinion that in Cuba's own interest this step should be taken immediately. He said he agreed and would endeavor to impress this view on the President.

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<sup>23</sup> See pp. 472 ff.

The Ambassador said that the Government anticipated no difficulty in obtaining the Congress' approval of payment in unallocated bonds of the new series.

Have you any observations for me to make to the President or to the Cuban Ambassador?

Martinez Fraga said he would send you a memorandum regarding the project for the revaluation of mortgage credits within a few days.

The Ambassador authorized me to say that the Government promised that decree law No. 521<sup>24</sup> would not be tampered with.

The Ambassador said he had definitely encouraged the President and Colonel Batista to believe that the United States is prepared to agree to a revision of the trade agreement and is prepared to cooperate in the establishment of a national bank here.

BEAULAC

839.51 Public Works Debt/134 : Telegram

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

HABANA, October 12, 1938—2 p. m.

[Received 2:35 p. m.]

114. My 113, of October 11, 1 p. m. With reference to our recent telephone conversation it would be helpful to me if I could be informed regarding your conversations with the Cuban Ambassador.

BEAULAC

837.51 Public Works Debt/134

*The Under Secretary of State (Welles) to the Chargé in Cuba (Beaulac)*

WASHINGTON, October 13, 1938.

MY DEAR MR. BEAULAC: In response to the request contained in your telegram number 114 of October 12, I may say in general that my talks with Dr. Martínez Fraga in Washington followed along the lines indicated to you in my recent telephone conversation with you.

I think it is unnecessary, therefore, for me to review the general statements of policy which I made to him, since you have already conveyed—I think very effectively—to various members of the Cuban Government those same views. To summarize I may merely state that I told him I felt his Government should know that if this Government were to continue the policy of intimate and close cooperation with the Cuban Government which it had been pursuing for these past four years, it must have concrete evidence from the Cuban Government that it was prepared to cooperate in the same effective and

<sup>24</sup> Approved January 17, 1936, *Gaceta Oficial (edición extraordinaria 13)*, January 20, 1936.

practical manner which the Government of the United States had pursued. I said that at the present moment there were various matters which had given me very great concern: (a) The unwillingness of the Cuban Government, notwithstanding repeated assurances, to meet its just obligations to American creditors and specifically to two remaining groups of public works obligations holders. (b) The apparent intention of the Cuban Government to enact revalorization legislation which in certain instances would amount to confiscation of capital pure and simple, and which would fatally undermine confidence in Cuba at the very moment when Cuba needed all the confidence in her future and in her stability that she could obtain. (c) The apparent intention of the Cuban Government to break down Decree Law No. 522<sup>25</sup> which gave confidence and stability to the sugar industry. I said it seemed to me that if Cuba desired to pursue a truly reciprocal policy of cooperation with the United States the points I had mentioned must be corrected. I said that so far as the United States Government was concerned, it was anxious and desirous of continuing the policy of cooperation with Cuba but that its ability to do so depended solely upon Cuba herself. I said that if Cuba gave practical evidence of her desire to do so, there were various steps which could be taken by this Government to be of benefit to Cuba. I mentioned the fact that it was notorious that the Cuban Government was losing between ten and eleven million dollars a year as a result of faulty organization in the Cuban Treasury Department and in the Cuban internal revenue system as well as through inefficiency and corruption. I said that if the Cuban Government desired to invite the services of outstanding experts of this Government in order that they might cooperate with Cuban officials in drawing up a program which would correct this situation, we would be glad to lend such experts. I said I thought that such a step on the part of the Cuban Government would undoubtedly make it easier from the standpoint of Cuban public opinion to undertake the economies required in the existing budget. I said further that this Government would be prepared immediately after Election Day to undertake a revision of the Trade Agreement.

I want to emphasize the fact that once again there was no question of a *quid pro quo*. I made it very clear that the question at issue was the question of whether the two Governments desired sincerely to cooperate to their common advantage, and that while we would be willing and disposed to take certain steps such as those I have indicated for the benefit and advantage of Cuba, neither the Congress nor public opinion in this country would enable us to do so if Cuba showed no practical signs of doing her share.

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<sup>25</sup> Approved January 18, 1936, *Gaceta Oficial*, January 20, 1936.

This, in essence, constitutes the chief points in my conversation with the Ambassador. Other possibilities were touched upon, but in no positive manner. I did state that if the Cuban Government so desired, it would seem to me desirable that the plans so long under discussion between the Cuban Treasury Department and the United States Treasury Department with regard to banking reform in Cuba be determined upon at an early moment and be taken up vigorously by the Cuban Government with their own Congress. That, however, obviously was a matter for Cuba to determine.

It is, of course, entirely impossible for us to make any announcement of intention to revise the Trade Agreement until after Election Day and the Ambassador is quite familiar with that situation. I assume that he will already have made this clear to the President of Cuba.

With my kind regards [etc.]

SUMNER WELLES

837.51 Public Works Debt/141 : Telegram

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

HABANA, October 19, 1938—1 p. m.

[Received 2:20 p. m.]

117. For the Under Secretary. I carefully reviewed with the Secretary of State this morning our policy as set forth in your telegram 74, October 6, noon, and in your personal letter to me of October 13. Doctor Remos took careful notes and expressed the wish that I see the President and outline our policy once more to him. The only interpretation I can reach is that again there has been a misunderstanding of our attitude on the part of the officials of this Government.

BEAULAC

837.51 Public Works Debt/141 : Telegram

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

WASHINGTON, October 19, 1938—7 p. m.

77. Your No. 117, October 19, 1 p. m. In view of the discussions now in progress here between the Cuban Ambassador and the Under Secretary, I do not believe that any further exposition of the position of this Government by the Embassy is necessary or would be desirable at this juncture. You should accordingly avoid for the moment further conversations, on the subject of the specific questions under discussion here, with officials of the Cuban Government, and should such conversations be proposed by the latter I prefer that you courteously suggest that they do not appear to be required in the light of the Washington discussions.

HULL

837.51 Public Works Debt/147 : Telegram

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

HABANA, October 28, 1938—6 p. m.

[Received 10 : 35 p. m.]

124. For the Under Secretary. Senator Casanova called to say that he attended a meeting at the President's Palace day before yesterday attended also by the President, Colonel Batista, the President of the Senate, the President of the House, Senator Casabuena, the Secretary of State and the Secretary of the Treasury, at which the Secretary of State announced that Ambassador Martinez Fraga had informed him that Warren Brothers and Purdy & Henderson had agreed to accept payment in unallocated bonds of the series exchanged for public works bonds in the amount of 59% of the principal of their claims. It was agreed that prior to Colonel Batista's departure for Washington<sup>26</sup> a bill would be prepared and presented in the Senate, with the signatures of the President of the Senate, Senator Casabuena and Senator Casanova providing for such settlement and providing for settlement with the Cuban contractors in bonds of a junior issue with a junior lien on the revenues pledged for the service of the bonds exchanged for postal bonds.

Senator Casanova said the Secretary of State reported that Ambassador Martinez Fraga will bring a final memorandum on the subject when he returns to Habana tomorrow.

Senator Casanova said he was informing me of the foregoing because he feared there might be some mistake in the figure of 59% since he had understood that both American creditors had held out for 80% (see enclosure 3 to my despatch 1228, October 18<sup>27</sup>).

Neither Crafts nor Brownson has informed me of any change in the attitude of their principals toward the settlement they are willing to make with the Cuban Government. I have not discussed this new development with them.

I did not discuss with the Senator our attitude toward the public works debt.

BEAULAC

837.51 Public Works Debt/154

*Memorandum of Conversation, by the Assistant Chief of the Division of the American Republics (Briggs)*

[WASHINGTON,] October 31, 1938.

Mr. Duggan and I called on the Cuban Ambassador on October 29 seeking certain assurances regarding the intentions of the Cuban

<sup>26</sup> On the invitation of the Chief of Staff of the United States Army, Colonel Batista visited Washington in November to attend Armistice Day exercises.

<sup>27</sup> Not printed.



Government toward liquidating the debts of Warren Brothers and Purdy and Henderson.

The Ambassador assured us that the entire bloc of bonds remaining of the \$85,000,000 issue (\$9,899,300) would be utilized for the liquidation of these debts, Warren Brothers receiving \$8,718,600, and Purdy and Henderson \$1,180,700. (See Mr. Brownson's letter of October 15, 1938, to the Cuban Ambassador, transmitted as an enclosure to the Embassy's despatch no. 1128 [1228] of October 13 [18], 1938).<sup>28</sup>

As to the mechanics of making these bonds available, the Ambassador said that assurance had been obtained from congressional leaders that a bill would be enacted authorizing the President to utilize the remaining bonds in connection with the settlement of the Public Works Debt, without mentioning any creditors by name, and that the measure would probably likewise provide for negotiation of a settlement with the (Cuban) creditors. The Ambassador continued that, having obtained that authorization, which he reiterated that he believed would be granted by Congress at a very early date, the President would then immediately turn over the bonds to the two American creditors.

The Ambassador further explained that he envisaged a junior issue of not exceeding \$6,000,000 to take care of the *contratistas*<sup>29</sup> (between \$4,000,000 and \$5,000,000), the Fred A. Morris claim,<sup>30</sup> and certain minor items.

Mr. Duggan inquired as to whether the Ambassador had estimated the percentage basis represented by the proposed Public Works Debt settlements, and the Ambassador promptly replied that he had, stating that he was naturally anxious for the Cuban Government to be able to present to its people a picture of a settlement along lines as favorable as possible to Cuba, and that since the total *obligaciones*,<sup>31</sup> *pagarés*<sup>32</sup> and accrued interest was in the neighborhood of \$30,000,000 and since the proposed settlement totaled around \$15,000,000 (approximately \$10,000,000 to Warren Brothers and Purdy and Henderson and not exceeding \$5,000,000 for the *contratistas*) the settlement could legitimately be described as on a 50 percent basis. This he thought would render the settlement considerably more palatable in Cuba.

Mr. Duggan likewise took up with him a paragraph in a recent confidential memorandum prepared by the Ambassador (no. 12) in which reference had been made to the SEC.<sup>33</sup> Mr. Duggan pointed

<sup>28</sup> Not printed.

<sup>29</sup> Contractors.

<sup>30</sup> The Morris claim was based on a judgment of the Cuban Supreme Court providing compensation for land seized by the Cuban Government (337.1154 Morris, Fred A./23).

<sup>31</sup> Obligations.

<sup>32</sup> Promissory notes.

<sup>33</sup> Securities and Exchange Commission.

out that the implication of the paragraph was that the Commission had approved the allocation of the remaining bonds of the February issue to liquidate the Public Works Debt, whereas it was his understanding that the primary interest of the Commission was in obtaining the assurance of the Cuban Government that if the bonds were to be disposed of through an underwriter, an amendment to the registration certificate would be signed with the SEC. After considerable discussion on this point, the Ambassador professed to understand the situation; he pointed out, however, that the memorandum was intended for the confidential information of a small number of Cuban officials, and that it was not anticipated that it would be made public. Mr. Duggan stated that he had emphasized this point because he felt that, should the paragraph in question be used in the preamble to any Cuban legislation, for example, the SEC might take immediate issue therewith.

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837.51 Public Works Debt/150 : Telegram

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

HABANA, November 1, 1938—1 p. m.

[Received 3:40 p. m.]

130. Mr. Crafts told me that at a conference he and Mr. Brownson had last night with the Cuban Ambassador and Montoulieu <sup>24</sup> it was tentatively agreed that Purdy and Henderson would be paid according to previous agreement, entire payment being made in unallocated bonds of the series exchanged for public works bonds.

With reference to the other creditors Cuban and foreign there will be a new issue of bonds bearing 5% interest with 15-year maturity and sinking fund sufficient to retire bonds at maturity, not to exceed \$10,000,000, with a first lien on revenues derived from a tax on petroleum products other than gasoline to be created by the law authorizing the issue and with a junior lien second only to the lien of the bonds of the series exchanged for public works bonds on the revenues pledged to the service of those bonds. This new issue and the remainder of the unallocated bonds of the series exchanged for public works bonds will be divided pro rata among Warren Brothers and all other holders of obligations and port notes. Such creditors will be paid in those bonds at their par value at the rate of 80 percent of the principal of their claims. Full interest without discount or deduction of any kind for the 6 months' period ending December 31,

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<sup>24</sup> Eduardo I. Montoulieu, of the Cuban Treasury Department.

1938, will also be paid in those bonds. Messrs. Gow and Powers<sup>35</sup> have approved in principle.

Mr. Crafts is not clear as to the character of the tax to be created on petroleum products. In this connection see Department's instruction No. 1321 of July 3, 1937<sup>36</sup> and related correspondence.

BEAULAC

837.51 Public Works Debt/151 : Telegram

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

HABANA, November 2, 1938—2 p. m.

[Received November 2—1: 35 p. m.]

132. Montouliou yesterday confirmed in writing to Mr. Crafts the general agreement outlined in the Embassy's telegram No. 130, November 1, 1 p. m. Mr. Crafts in a letter to the Cuban Ambassador yesterday likewise confirmed general agreement subject to working out of details. Cuban Ambassador told Mr. Crafts last night the President had approved agreement. Montouliou and Gorriin<sup>37</sup> are working out details of new taxes.

WRIGHT

837.51 Public Works Debt/153 : Telegram

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

HABANA, November 3, 1938—1 p. m.

[Received 2:21 p. m.]

133. Embassy's telegram number 132, November 2, 2 p. m., Cuban Ambassador told Crafts today opposition among Congressmen made it necessary to reduce interest rate on junior issue from 5 to 4½%. Crafts obtained Powers' consent to such reductions and so informed the Cuban Ambassador who then requested that Warren Brothers waive interest from July 1, 1938 to January 1, 1939 which Crafts declined to do.

Meeting is at present taking place between the President, Batista, Cuban Ambassador and Parliamentary leaders at which this matter is being discussed. Fraga tells Crafts that he will not leave Habana until the bill is introduced in Congress.

WRIGHT

<sup>35</sup> Walter Powers, member of Boston law firm of Sherburne, Powers & Needham, agent for the United States District Court, Boston, in the Warren Brothers case.

<sup>36</sup> Not printed.

<sup>37</sup> Attorney for the Chase National Bank.

837.51 Public Works Debt/176

*Memorandum of Conversation, by the Assistant Chief of the Division  
of the American Republics (Briggs)*

[WASHINGTON,] December 15, 1938.

Mr. Crafts telephoned me this afternoon to express some concern over the failure of the Cuban Congress to act on the debt settlement legislation. He said that he had just talked by telephone with Mr. Brownson in Habana and that the latter reported that the Government appeared to be exerting no "pressure", and that "things were drifting". Mr. Crafts said that although he had obtained a further extension of the court (for thirty days—expires January 15, 1939), the court had been critical of the situation and of the failure of the company to report more substantial progress.

I told Mr. Crafts that in my opinion we were doing all that we properly could to indicate our continuing and unremitting interest in the enactment of appropriate legislation and that he could be assured that such interest would continue. I told him that as recently as this morning Ambassador Wright had mentioned the question to me by telephone and that the Embassy was following developments with the closest attention. I said that I would inform the Acting Secretary of Mr. Crafts' telephone call and that in these circumstances it would not seem necessary for Mr. Crafts to seek the interview with Mr. Welles which he had previously mentioned.

ELLIS O. BRIGGS

## DOMINICAN REPUBLIC

### NEGOTIATIONS FOR A CONVENTION BETWEEN THE UNITED STATES AND THE DOMINICAN REPUBLIC MODIFYING THE CONVENTION OF DECEMBER 27, 1924, REGARDING DOMINICAN CUSTOMS REVENUE<sup>1</sup>

839.51/4580

*The Minister in the Dominican Republic (Norweb) to the  
Secretary of State*

No. 204

CIUDAD TRUJILLO, February 17, 1938.

[Received February 21.]

SIR: I have the honor to inform the Department that yesterday afternoon I had my first interview with the Secretary for Foreign Affairs, Mr. Ortega Frier, since his return from the United States on February 15.

Mr. Ortega spoke at considerable length of his conversations in the Department and I feel it may be useful to submit a report on what he had to say in order that the Department may corroborate his statements to me.

Mr. Ortega said that he had discussed the problem of eliminating the 1924 Convention<sup>2</sup> with great candor and that he had found a satisfactory meeting of the minds with respect to the prime requisite of changing the 1924 Convention, which was that an honorable release was sought on both sides from the engagement, on one part, that the United States protect the holders of the Dominican Government's bonded indebtedness and, on the other part, that the Dominican Government accept the guarantee of that obligation through the Receiver-ship General of Customs.

Mr. Ortega said that he had proposed that the Dominican Government draft legislation which would pledge the entire revenues of the Government as a prior lien for the bondholders to provide amortization and interest on the foreign debt on the same scale as now provided under the provisions of the 1924 Convention and the subsequent amendment of its terms by the 1934 agreement between the Dominican Government and the Bondholders Council.<sup>3</sup> In addition to this legislation (which he said he would transmit, through the Legation, in

<sup>1</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 440-467.

<sup>2</sup> For text of convention, see *ibid.*, 1924, vol. I, p. 662.

<sup>3</sup> See *ibid.*, 1934, vol. v, pp. 189 ff.

all stages of its formulation in order that the Department might be aware of what was contemplated) Mr. Ortega proposed that the Dominican Government enter into a contractual obligation with the bondholders setting forth the terms of the laws pledging the entire revenues of the Dominican Government as a prior lien to secure the amortization and service of the debt. He wanted this contract as a double security for the bondholders, as legislation might unilaterally be changed by an act of the Dominican Congress whereas a contract could not be abrogated except by joint agreement of the two parties.

To obtain the consent of the bondholders to this procedure the Dominican Government would greatly appreciate the assistance of the Department in establishing contact with them. Mr. Ortega would rely in this regard upon the good will and cooperation of the Department. . . .

Once the bondholders had accepted the new contractual status proposed for the amortization and service of the bonds, Mr. Ortega said it would then be possible to consider the abrogation of the 1924 Convention. A new convention of amity and commerce might be negotiated. The Foreign Secretary, however, did not want this new treaty between the United States and his Government to have any connection with the old, or with the payment of the Dominican foreign debt. He said,

"I think a good way to handle it would be for the United States to make a unilateral declaration, referring to the Good Neighbor Policy and pointing out that in pursuance of that policy the time had been found right for a change in its treaty relationships with the Dominican Republic. Such a statement will increase President Roosevelt's prestige even more in the American Republics, and it will pave the way nicely for the negotiation of our new Convention."

Although to the bondholders the entire revenues of the Dominican Government would be pledged for the repayment of their debt, Mr. Ortega Frier foresaw that the Receivership of Customs mechanism at least would be retained in much its present form. He thought that a change of personnel would be inevitable and that Mr. Pulliam,<sup>4</sup> owing to his advanced age and long years of service, would be given a special "jubilación"<sup>5</sup> from the Dominican Government upon the termination of his services.

Respectfully yours,

R. HENRY NORWEB

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<sup>4</sup> William E. Pulliam, General Receiver of Dominican Customs.

<sup>5</sup> Pension.

839.51/4584

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

No. 213

CIUDAD TRUJILLO, February 23, 1938.

[Received February 28.]

SIR: I have the honor to refer to my despatch no. 204 of February 17, 1938, reporting the views of the Dominican Foreign Secretary, Mr. Ortega Frier, in respect of forthcoming conversations looking toward the revision of the 1924 Convention between the United States and the Dominican Republic.

Mr. Ortega intimated to me this morning his desire that preliminary conversations in this regard take place locally between the Legation and the Dominican Foreign Office, stating that he thought this would be an excellent way in which to initiate the negotiations. He said that the Dominican Minister at Washington, Mr. Andrés Pastoriza, is expected to arrive here this afternoon or Friday by air from the United States to go over the ground with the Foreign Office on the question of the 1924 Convention and its revision.

Mr. Ortega again alluded to Mr. Pulliam's long years of service and the prospects for his future, inquiring guardedly how this question should be approached. I replied that I thought the matter could well wait until the question of the replacement of the 1924 Convention and the Receivership mechanism established thereby was settled, when it could be taken up with Mr. Pulliam.

Respectfully yours,

R. HENRY NORWEB

839.51/4588

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

No. 224

CIUDAD TRUJILLO, February 28, 1938.

[Received March 4.]

SIR: I have the honor to refer to my despatch no. 204 of February 17, 1938, reporting the views of the Dominican Foreign Secretary, Mr. Ortega Frier, in respect of forthcoming conversations looking toward the revision of the 1924 Convention between the United States and the Dominican Republic.

As further illustrating the feeling in the Dominican Government as to the necessity of abrogating the 1924 Convention, I desire to report a conversation between President Trujillo and Colonel James Roosevelt yesterday on the occasion of a luncheon given Colonel Roosevelt by the President during his brief visit in Ciudad Trujillo.

President Trujillo mentioned the eager desire of the Dominican Government for a removal of the restrictions on Dominican sovereignty imposed by the 1924 Convention and intimated his confidence that President Roosevelt in pursuance of the Good Neighbor Policy would give sympathetic consideration to the revision of that treaty. Colonel Roosevelt replied (at my previous suggestion) that he understood that the question was one under discussion between the two governments and that he was sure it was his father's wish that a satisfactory arrangement be worked out.

I mention this exchange between President Trujillo and Colonel Roosevelt because it illustrates not only the point of view in the Dominican Government but a probable line of policy which will be followed in the negotiations for the moderation of the 1924 Convention. The Dominican thesis seems to be that the United States, strictly to comply with the Good Neighbor Policy, must in any and all cases where some previous treaty commitment implies an American interest supposedly at variance with that policy at once throw over the treaty commitment. In other words, the presumed "obligations" of the United States under the Good Neighbor Policy are paramount as compared with the obligations of the United States as expressed in the 1924 Convention.

In rejoinder it may be pointed out that good neighborliness is reciprocal, that the fulfilling of contracts properly incurred is of its essence, and that the United States in pursuance of this idea expects to have assurance that the bondholders, for whom it holds a moral responsibility under the 1924 Convention, will be protected beyond any doubt under such new system as may be proposed by the Dominican Government to replace the Receivership now in effect.

Respectfully yours,

R. HENRY NORWEB

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839.51/4588

*The Secretary of State to the Minister in the Dominican Republic  
(Norweb)*

No. 52

WASHINGTON, March 8, 1938.

SIR: The Department has received your despatches nos. 213 and 224 of February 23 and 28, 1938, respectively, regarding the desire of the Dominican Foreign Secretary to initiate preliminary conversations in Ciudad Trujillo looking to the revision of the 1924 convention between this country and the Dominican Republic.

In as much as all previous conversations on the subject have taken place in Washington, it is believed that you may concur in the Department's view that it would be easier and more satisfactory for the discussions as to any proposals which the Dominican Govern-



ment may wish to advance to take place in this city rather than in Ciudad Trujillo.

Accordingly, you are requested at an early opportunity to make known to Lic. Ortega Frier, the Dominican Foreign Secretary, the Department's preferences in this regard.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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839.51/4591

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

No. 238

CIUDAD TRUJILLO, March 12, 1938.

[Received March 15.]

SIR: I have the honor to refer to the Department's instruction No. 52 of March 8, 1938 (File No. 839.51/4588), requesting me to make known to Lic. Ortega Frier, the Dominican Foreign Secretary, the Department's view that it would be easier and more satisfactory for the discussion of any Dominican proposals with regard to revision of the 1924 Convention between the United States and the Dominican Republic to take place in Washington rather than in Ciudad Trujillo.

I imparted the view of the Department in this respect to the Foreign Secretary this morning who expressed disappointment again and referred to his President's wish that the conversations to be initiated here and brought to a stage where final agreement at least should be in sight before his forthcoming resignation as Foreign Secretary.

It was apparently the view of both President Trujillo and Mr. Ortega Frier that it was preferable not to work through Minister Pastoriza in Washington, although this view implied no lack of confidence in their representative, a fact borne out by the return of Mr. Pastoriza to Washington with a considerable increase in salary. The opinions of the Foreign Secretary and the President, which seem strongly held, apparently are based on a conviction that Mr. Pastoriza in presenting his various formulas has laid emphasis more on details than upon basic principles. Mr. Ortega this morning said that he wished to initiate conversations based on two considerations; the first, that the abrogation of the 1924 Convention was desirable as the Convention is now an anachronism, conforming neither with American foreign policy nor with the general principles of constitutional and international law. Secondly, the Foreign Secretary thought it would be helpful to recognize at the outset that the Receivership in some form or another was an efficient means of guaranteeing the Dominican Government's obligations to the bondholders and that, whereas

previous Dominican proposals had envisaged substantial modification or even the termination of the Receivership with the Convention, Mr. Ortega thought that it should be retained.

Mr. Ortega said that when his Minister returned to Washington next week he would communicate with the Department his view in respect of the place where preparatory conversations should be held.

Respectfully yours,

R. HENRY NORWEB

839.51/4610: Telegram

*The Chargé in the Dominican Republic (Hinkle) to the Secretary of State*

CIUDAD TRUJILLO, June 6, 1938—4 p. m.

[Received 7:10 p. m.]

31. The President called me to the Foreign Office today where the Dominican Foreign Secretary read a despatch just received from Minister Pastoriza giving Secretary Hull's suggestion that both notes<sup>6</sup> be withdrawn.

The President said that he was entirely agreeable to this provided that informal conversations could be held in Washington with some assurances of success. He felt that exchanges of notes would not achieve results and that the note mentioned in my telegram No. 30, June 2, 10 a. m.<sup>7</sup> would not be submitted. He could, however, send the Dominican Foreign Secretary as special envoy but did not wish to do so without at least some general idea of what at present would be acceptable to our Government and requested the Legation to secure if possible some such expression.

The President said he understood both countries were desirous of a revised convention and reiterated the modifications suggested by the Minister contained in my telegram 30, June 2, 10 a. m., adding that the Dominicans would be glad to consider any other modification which might reasonably protect the bondholders without infringing on Dominican sovereignty.

The President said that he would like to reach an agreement before retiring from the Presidency in August and intimated that failing this he might have to consider publishing the notes to show that he had at least tried his best. Failing informal discussions the Foreign Minister thought the only other recourse would be to submit the Dominican contentions to arbitration.

<sup>6</sup> A note dated May 4 was delivered to the Department by the Dominican Minister on May 10. A reply was handed to the Dominican Minister by the Secretary of State on May 19. These notes together with a second note of June 21 from the Dominican Minister were withdrawn on July 7. (839.51/4607, 4612½)

<sup>7</sup> Not printed.

The President in concluding emphasized his country's obligations towards the convention and stated that any idea of unilateral action was unthought of.

HINKLE

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839.51/4610 : Telegram

*The Secretary of State to the Chargé in the Dominican Republic  
(Hinkle)*

WASHINGTON, June 8, 1938—3 p. m.

22. Your 31, June 6, 4 p. m. You should request an interview with President Trujillo immediately and inform him that you have communicated his views to the Department and the Department has instructed you to state that it stands ready as it has indicated on several previous occasions to proceed immediately with negotiations with the Dominican Government regarding a readjustment of the Convention of 1924. You may say in this connection that the general principles of the Department's attitude towards readjustment of the existing treaty relationship were amply set forth in the Department's counter suggestions to the Dominican proposals in the spring of 1937, which culminated in the Department's final counterdraft of a convention delivered to the Dominican plenipotentiaries on April 12, 1937.<sup>8</sup> The Department has never received any detailed comment from the Dominican Government regarding this counter proposal.

You may add that while the Department would not wish to give the impression that any future proposals should necessarily be limited to the lines of the negotiations already undertaken, it would be lacking in candor were it not to make clear from the outset that the rights of the holders of the bonds of the external loans must be adequately safeguarded. Subject to such a restriction the Department will be glad to consider sympathetically any proposal which the Dominican Government on its initiative may care to advance, and will make every endeavor to return a prompt reply. You should add that since the party desirous of modifying the convention is the Dominican Republic and since the last counter proposal of the United States has so far remained unanswered, the Department believes that the initiative should come from the Dominican Government.

Finally you may say that in the opinion of the Department, while it is desirable that the negotiations should take place in Washington, there would seem to be no necessity for the Foreign Secretary or for any other special envoy to come to Washington.

HULL

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<sup>8</sup> Counterdraft of this date not found in Department files; for the American counterproposal of March 22, see *Foreign Relations*, 1937, vol. v, p. 453.

839.51/4612 : Telegram

*The Chargé in the Dominican Republic (Hinkle) to the Secretary of State*

CIUDAD TRUJILLO, June 8, 1938—4 p. m.

[Received 5:15 p. m.]

32. Legation's 31, June 6, 4 p. m. The Dominican Foreign Minister today stated that the President wished before retiring in August either to modify the convention or failing this to resort to arbitration of the question as to whether paragraph 1 of article 1 and article 3 of the convention are still applicable.

The Minister reiterated the President's recognition of Dominican obligations to the bondholders and stated that he saw no reason why any points in the proposed law contained in the Dominican note should not be incorporated in a modified convention should this procedure give added protection to the bondholders.

The Minister also said that he hoped to receive from the Legation as soon as possible some general idea of what modification at present would be acceptable to our Government, in order to decide whether he should personally attempt informal conversations in Washington.

HINKLE

839.51/4613 : Telegram

*The Chargé in the Dominican Republic (Hinkle) to the Secretary of State*

CIUDAD TRUJILLO, June 10, 1938—9 a. m.

[Received 10:50 a. m.]

33. The President on being informed of contents of Department's telegram No. 22, June 8, 3 p. m., indicated that he would have a proposal made as soon as possible. He suggested that the Foreign Secretary in drawing up his proposal should consult with Minister Norweb whenever possible.

HINKLE

839.51/4616

*The Chargé in the Dominican Republic (Hinkle) to the Secretary of State*

No. 340

CIUDAD TRUJILLO, June 14, 1938.

[Received June 16.]

SIR: With reference to the Legation's telegram No. 33 of June 10—9 a. m., reporting President Trujillo as having indicated that he

would have a new proposal made as soon as possible regarding the Convention, I have the honor to report that the Dominican Foreign Secretary today said that no instructions have yet been sent to Minister Pastoriza to withdraw the Dominican note. The Foreign Secretary said that he was under the impression that the President could not very well withdraw the note until another Dominican proposal might be accepted. The Foreign Secretary explained that the President felt that before retiring in August he would have to have something concrete to show to the country representing his efforts to modify the Convention. If a proposal could be drawn up by the Dominican Government before then and acceptable for us then it was the President's idea to withdraw all previous notes on the subject. However, failing successful negotiations the President felt that he would have to publish at least the last two notes.

The Foreign Secretary pointed out that inasmuch as the last Dominican note had not been withdrawn, it seemed as if it was up to us to make a counter-proposal. I pointed out that the President had indicated in our last interview that it was his idea to have a new proposal made as soon as possible. The Dominican Foreign Secretary replied that he understood the President had not yet fully decided on the whole matter and would reach some decision in a few days.

The Foreign Secretary said that he personally felt it would be a mistake to withdraw the notes at present, but that a new proposal might perhaps be made. I pointed out that a withdrawal of both notes would make a much better impression in Washington for future negotiations.

With regard to any modified Convention the Dominican Foreign Secretary was sure that his Government could insist that the President of the Dominican Republic appoint the personnel of the Customs Receivership.

As the President has already suggested, the Foreign Secretary felt that should a proposal be made he would like very much to have the benefit of Minister Norweb's informal comment before sending it to Washington.

Respectfully yours,

EUGENE M. HINKLE

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839.51/4616½

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

WASHINGTON, July 7, 1938.

The Dominican Minister called to see me this morning at my request. In accordance with the understanding we had reached on the

telephone yesterday I returned to the Minister the two notes which had been sent to the Secretary of State by the Minister in compliance with the instructions which he had received, and in return he handed me back the note which the Secretary of State had addressed to him under date of May 19.<sup>9</sup> I told the Minister that I thought the best way of handling this withdrawal of notes was in the most informal way possible, to which he agreed. I expressed my satisfaction at the fact that the notes had now been withdrawn by order of President Trujillo, and expressed to him my appreciation of the interest which he personally had taken in bringing about this solution.

I asked the Minister if he had as yet received any instructions from his new Minister of Foreign Affairs<sup>10</sup> with regard to proposals from the Dominican Government for the modification of the 1924 Convention, and the Minister replied that he had not as yet received any instructions. He said, however, that he was urging his Government to do what was possible to expedite the matter so that their views might be placed before this Government. I repeated to him that we would be glad to give immediate consideration to any representations of this character which might be made by his Government.

S[UMNER] W[ELLES]

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839.51/4628

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

WASHINGTON, July 25, 1938.

The Dominican Minister called to see me this morning and gave me to read two letters addressed to him by his new Minister for Foreign Affairs. In the first letter the Minister was authorized to resume unofficial and personal conversations with the Department of State with a view to ascertaining whether some basis could be found for a satisfactory modification of the 1924 convention. In the second the Minister was requested to ascertain whether the Department of State would be willing to discuss with the Dominican Government the possibility of reaching a basis for a trade agreement.<sup>11</sup>

With regard to the first point I told the Minister that I should be very happy to talk this problem over with him and that I would set some day the latter part of this week for an initial conversation. With regard to the second, I told the Minister that I would ask some of the appropriate officials of the Trade Agreements Division to have

<sup>9</sup> See footnote 6, p. 496.

<sup>10</sup> Arturo Despradel.

<sup>11</sup> See pp. 503 ff.

a clarifying conversation with him and that I would be glad to notify him of the arrangements made.

I asked the Minister if he had any information concerning the political situation in the Dominican Republic. He said that he was never sent any information but that his wife was now in his own country and that he hoped when she came back the middle of next month that he would be able to obtain from her some accurate information as to what was going on. He gave me the impression that he sensed a condition of uncertainty in Santo Domingo and that no one was sure just what Trujillo was going to do once the new government was installed.

S[UMNER] W[ELLES]

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839.51/4642

*The Minister in the Dominican Republic (Norweb) to the Secretary of State*

No. 438

CIUDAD TRUJILLO, September 8, 1938.

[Received September 12.]

SIR: I have the honor to inform the Department that today for the first time the Dominican Foreign Secretary, Mr. Arturo Despradel, intimated to me that he was aware of the conversations which have been quietly in progress in Washington between Mr. Pastoriza and officers of the Department exploring the basis for a possible revision of the Dominican-American Convention of 1924.

Mr. Despradel brought up the matter with the remark that the exchanges of notes in the spring of 1937 had convinced him that some new line of approach was essential. He said he was disposed to regard that phase of the negotiations as a closed chapter and added that he thought the rejoinder of the Dominican Government to the Department's last proposals of March 22<sup>12</sup> and April 12, 1937<sup>13</sup> might well be viewed in this light. I observed that I had never seen the rejoinder to which he made reference.

Mr. Despradel said that his Government was by now fully aware of the differences in point of view to be encountered in securing a satisfactory solution of this problem. He said that his Government entertained no hopes of an immediate revision of the Convention but that its policy was one of attempting to examine fundamentally each obstacle to an eventual agreement and to reach an accord piecemeal, point by point, with the Department until the area of difference could be narrowed down until agreement might be really within grasp.

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<sup>12</sup> *Foreign Relations*, 1937, vol. v, p. 453.

<sup>13</sup> Not found in Department files.

The Foreign Secretary concluded by saying that in the last analysis he thought that an agreement would be difficult so long as the moral responsibility to the bondholders outweighed the question of policy with regard to the continuance of a special treaty relationship. Mr. Despradel said, "these two points of view are like two horses in a race. Just now the horse which represents your Government's responsibility to the bondholders is ahead. Until the other horse can catch up with it the race will not be very exciting".

I have the impression from my conversation with the Foreign Secretary that he at least is disposed to a rational approach to the question of revising the 1924 Convention and that his thought as to the method of negotiation is in accord with the Department's own view as to how the conversations may best be handled.

Respectfully yours,

R. HENRY NORWEB

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839.51/4660

*Memorandum of Conversation, by Mr. Selden Chapin of the Division of the American Republics*

WASHINGTON, December 13, 1938.

The Dominican Minister called this morning and in accordance with an arrangement with Mr. Hawkins,<sup>14</sup> I took him to see the latter who delivered to him the Department's memorandum<sup>15</sup> replying to a Dominican memorandum<sup>16</sup> on the proposed trade agreement between the Dominican Republic and the United States. The Minister appeared to be satisfied with such points of the memorandum as Mr. Hawkins outlined to him orally.

Later, the Minister delivered to me the attached clean copies of the Draft Convention and Enabling Act,<sup>17</sup> which he said had been made up as a result of further conversations over the weekend in New York City with Mr. Lancaster.<sup>18</sup> It will be observed that the Draft Convention incorporates all of the suggestions which were developed during my conversation with the Minister on December 5.<sup>19</sup> The Minister inquired, however, whether I felt it would be satisfactory to this Government should the Dominican Government so desire, to incorporate the substance of Article III of the Draft Convention in an exchange of notes. I replied that provided Article II was strengthened, such a procedure might be acceptable. It will also be

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<sup>14</sup> Harry C. Hawkins, Chief, Division of Trade Agreements.

<sup>15</sup> *Post*, p. 505.

<sup>16</sup> *Post*, p. 503.

<sup>17</sup> Not printed.

<sup>18</sup> William W. Lancaster, member of New York law firm of Shearman and Sterling, counsel of the National City Bank of New York.

<sup>19</sup> Memorandum of this conversation not printed.



observed that the new draft Enabling Act is based upon the revision of the draft prepared by Mr. Collado<sup>20</sup> and is now in much more logical order than the original proposal. The new draft seems to me entirely satisfactory since it apparently contains all of Mr. Collado's suggestions, going in fact beyond those with respect to the setting forth of the bank's powers and in providing for reserves, allocation of profits, et cetera. A new Article XXXI creates authority for a pension system.

The Minister stated that it would be necessary to arrange by exchange of notes for the retirement of the floating debt and for the transfer of the receivership pension system to the bank.

I reiterated to the Minister in accordance with the instructions of the Under Secretary, that Mr. Welles had had a chance merely to read over the Draft Convention and Enabling Act, but not to give them any profound study. I said that Mr. Welles had asked me to tell him that in his opinion, the Draft Convention and Enabling Act seemed to form a satisfactory basis for future discussions, but that it was to be thoroughly understood that neither this Government nor that of the Dominican Republic was to be considered in any way committed by this draft. Señor Pastoriza said that this was entirely his own understanding.

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PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT  
BETWEEN THE UNITED STATES AND THE DOMINICAN REPUBLIC

611.8931/107

*The Dominican Legation to the Department of State*<sup>21</sup>

[Translation]

MEMORANDUM

His Excellency the President of the Republic has considered the moment propitious for the initiation of conversations<sup>22</sup> at the Department of State with regard to the drawing up of a trade agreement between the Dominican Republic and the United States of America and to that effect has entrusted to me the duty of setting on foot steps to this end through the channel of this Legation.

With this intention you are invited to initiate negotiations as soon as possible, taking into consideration the fundamental bases detailed below and which are to serve you as guidance for the purpose pursued:

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<sup>20</sup> Emilio G. Collado, of the Division of the American Republics.

<sup>21</sup> Left at the Department on August 24, 1938. This was apparently a copy of a memorandum from the Dominican Foreign Ministry to the Legation.

<sup>22</sup> Informal conversations had already commenced.

## SUGAR

(a) Concession on the part of the United States of a quota not less than 150,000 tons per year;

(b) That, together with the concession of the quota referred to in the foregoing paragraph, the United States modify the tariffs which it applies to Dominican sugar in such manner that the price of this product on the American market become higher than that which is obtained in the free market of London or, at least, that the price be the same.

## MARKET OF PUERTO RICO

(a) Concession of greater facilities of entry into Puerto Rico for all Dominican products susceptible of being consumed in that Island by the abolition of all the restrictions which that country now imposes on our products, and

(b) Very particularly, the obtaining of the entry of our bovine livestock into that country, on the hoof, the Dominican Government undertaking to guarantee the anti-tick bath beforehand as well as other measures necessary which may be requested, such as vaccination against diseases in general.

## VARIOUS PRODUCTS

Obtaining a guarantee regarding the maintenance of free entry into the United States or at least of entry on conditions of parity with Cuba of the following articles:

[Here follows list of 71 tariff items.]

Among the ordinary advantages, you should advise the Department of State that the Republic is disposed to maintain for the United States all the benefits which it now derives from the most-favored-nation clause which exists in benefit of the United States in virtue of the *modus vivendi* of 1924.<sup>23</sup>

## MARKET FOR PUERTO RICO

Beef	Pork
Goat's meat	Live chickens
Turkeys	Hen's eggs
Maize	Bananas
Coffee	

<sup>23</sup> Exchange of notes signed September 25, 1924, *Foreign Relations*, 1924, vol. I, pp. 667-670.

611.3931/107

*The Department of State to the Dominican Legation*<sup>24</sup>

## MEMORANDUM

The Department of State, deeply gratified to learn that the Government of the Dominican Republic desires to enter into a trade agreement with the Government of the United States, has given the most careful and sympathetic study to the proposals made in the memorandum which the Minister of the Dominican Republic was good enough to leave at the Department on August 24, 1938.

The Department shares the desire of the Dominican Government for a mutually advantageous expansion of the trade between the two countries and welcomes the opportunity to comment upon the Dominican Government's proposals. If, after further conversations, the two Governments find it possible to agree upon a basis for definitive negotiations and subsequently to conclude a trade agreement, it is felt that the friendly relations between the two countries, to which the Minister has contributed so much, will be further strengthened.

As the commercial policy of the United States is based upon the principle of equality of treatment, the Department notes with pleasure the statement made in the memorandum of August 24 that the Dominican Republic is disposed to maintain for the United States the most-favored-nation benefits derived from the *modus vivendi* of 1924. In view of that statement, the Department assumes that the Government of the Republic would be prepared to exchange, in a trade agreement, reciprocal guarantees of unconditional most-favored-nation treatment in respect of all forms of trade and payments control.

In accordance with the policy of extending to all countries which do not discriminate against American commerce the benefits of duty reductions and bindings which have been granted by the United States in its trade agreements, and pursuant to the terms of the *modus vivendi* of 1924, the benefits of duty reductions on the following products, among those mentioned in the memorandum of August 24, have been extended to the Dominican Republic:

[Here follows table of duty reductions on nine items and list of eight items bound on the free list.]

With reference to the request made in the memorandum of August 24 for parity of tariff treatment with Cuba, it may be pointed out that, in view of the terms of the trade agreement between the United States and Cuba,<sup>25</sup> under which the advantages provided for in the agreement are made exclusive, it would not be possible for the United States to

<sup>24</sup> Handed to the Dominican Minister by Mr. Harry C. Hawkins, Chief of the Division of Trade Agreements, on December 13.

<sup>25</sup> Signed August 24, 1934, *Foreign Relations*, 1934, vol. v, p. 169.

grant parity of treatment for Dominican products. On the other hand, the Department desires to point out that, in all but a very few cases, the percentage of preference which has been guaranteed to Cuba in the present trade agreement with that country, in respect of products in which the Dominican Republic has expressed an interest, is the same as that provided for in the treaty of commercial reciprocity of December 11, 1902 between the United States and Cuba.<sup>26</sup> In this connection, it may be noted that the public notice of intention to negotiate a supplementary trade agreement with Cuba, issued by the Department of State on November 30, 1938,<sup>27</sup> contained the statement that "no increases in the guaranteed percentages of preference in tariff rates will be made."

The Government of the United States would, however, be prepared to consider granting to the Dominican Republic, in connection with trade-agreement negotiations, duty reductions or the binding of the existing customs treatment in respect of any of the products mentioned in the memorandum of August 24, or of any other products, of which the Dominican Republic is the principal or an important source of United States imports. The Government of the United States would, of course, expect the Government of the Dominican Republic to give similar consideration in such negotiations to United States products imported into the Republic. With reference to the extent of concessions which might be granted by the United States, it should be noted that, under the authority of the Trade Agreements Act of June 12, 1934,<sup>28</sup> the President of the United States may not modify any existing rate of duty by more than 50 percent and may not transfer any article between the dutiable and the free lists.

With particular reference to the request that a quota of not less than 150,000 tons per year be granted for the importation of Dominican sugar into the United States, it may be pointed out that it would not be possible to modify, in connection with a trade agreement, the quota treatment now accorded to sugar originating in the Dominican Republic. The basis and method by which import quotas for sugar are determined have been established by the Congress of the United States, and the President has no authority, under the Trade Agreements Act, to modify those quotas.

As the Government of the Dominican Republic is aware, not only imported sugar but sugar produced in the United States is subject to quota limitations as a part of a program designed to restrict the total quantity of sugar marketed in the United States to an amount necessary to meet domestic consumption requirements. The quotas which have been fixed for the various areas, both domestic and foreign,

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<sup>26</sup> *Foreign Relations*, 1903, p. 375.

<sup>27</sup> Department of State, *Press Releases*, December 3, 1938, p. 398.

<sup>28</sup> 48 Stat. 943.

supplying sugar to the United States market are based upon the extent to which these areas have participated in the trade in past years. Any alteration in these shares in order to enlarge the quota of one area would require corresponding reductions in the shares of other areas.

However, it may be observed that the United States has taken steps, within the framework of this system, to increase substantially the sugar quota allotted to the Dominican Republic.

It will be recalled that during the past several years the Philippine Islands have been unable to fill their quota, and under the Jones-Costigan Act of 1934<sup>29</sup> the unused portion of this quota was reallocated among all other producing areas. Under the Sugar Act of 1937,<sup>30</sup> any unused portion of the Philippine quota was reserved exclusively for foreign countries other than Cuba. That this change is of real benefit to the Dominican Republic is evidenced by the fact that, in 1937, the Dominican quota was increased from 3,334 tons to 32,143 tons as a result of the reallocation of the unused portion of the Philippine quota as well as of the unused portions of the quotas allotted to other foreign countries to which the general rates of United States duties apply. The reallocation to the Dominican Republic of the unused portion of the Philippine quota in 1938 amounted to 7,265 tons. However, 4,677 tons of this amount was forfeited because of the failure to fill the quota by September 1.

Although it would not be possible to modify, in connection with trade-agreement negotiations, the quota treatment now accorded to Dominican sugar, the Government of the United States would be prepared to consider granting to the Dominican Republic in a trade agreement a reduction in the duty on sugar.

With reference to the request made in the memorandum of August 24 for concessions on the importation of certain Dominican products into Puerto Rico alone, it may be pointed out that Puerto Rico is an integral part of the customs territory of the United States and, for this reason, that it would not be possible to consider specific concessions of this nature in connection with trade-agreement negotiations. However, any concessions which might be granted to the Dominican Republic in a trade agreement would be applicable to imports of Dominican products into Puerto Rico as well as into the rest of the customs territory of the United States. Moreover, trade-agreement concessions granted to other countries and extended to the Dominican Republic are also, of course, applicable to Puerto Rican imports of the Dominican products concerned. In this connection, mention may be made of the duty reductions on cattle (paragraph 701 of the Tariff

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<sup>29</sup> Approved May 9, 1934; 48 Stat. 670.

<sup>30</sup> Approved September 1, 1937; 50 Stat. 903.

Act of 1930 <sup>31</sup>) which were granted to Canada in the present trade agreement with that country and in the new trade agreement signed on November 17, 1938 <sup>32</sup> and provisionally effective on January 1, 1939.

With particular reference to sanitary regulations affecting the importation of livestock into the United States (including Puerto Rico), it is believed that the Government of the Dominican Republic is aware that such regulations are established by the competent technical administrations of the United States Government pursuant to specific provisions of law. Although the Department of State is prepared, of course, to receive such representations or requests for information as the Government of the Republic may wish to make at any time in regard to such matters, it may be pointed out that there is no authority of law by which such regulations might be modified in connection with trade-agreement negotiations.

In commenting upon the proposals which have been made by the Dominican Government, the Department of State has endeavored to clarify the questions raised by those proposals. Motivated by the hope that it may be possible to find a basis for entering into trade-agreement negotiations at a reasonably early date, the Department will be very glad to receive the further views of the Dominican Government on the subject.

WASHINGTON, December 13, 1938.

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<sup>31</sup> Approved June 17, 1930; 46 Stat. 590, 631.

<sup>32</sup> Executive Agreement Series No. 149, or 53 Stat. 2348; see also vol. II, pp. 164 ff.

## ECUADOR

### RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND ECUADOR, SIGNED AUGUST 6, 1938<sup>1</sup>

611.2231/226

*The Consul General at Guayaquil (McDonough) to the Secretary  
of State*

No. 674

GUAYAQUIL, April 1, 1938.  
[Received April 5.]

SIR: I have the honor to report that during a visit to Quito, ending March 30, I conferred with Dr. Francisco Banda C., Chief of the Department of Commerce and Consular Affairs, Ministry of Foreign Relations of Ecuador, on the subject of a trade agreement, and that the prospects for completing such an agreement seem favorable if negotiations are resumed at once.

The Department will recall that Dr. Banda is in charge of the negotiation of trade agreements for Ecuador. He believes that he can obtain the approval by his Government to all the suggestions or assurances which he made in the course of our personal and very informal discussions.

As the Department is well aware, the negotiations failed last year because Ecuador insisted upon the incorporation of a clause making the agreement contingent upon the balance of trade being favorable to this country. Ecuador at that time exhibited a reluctance to include in its exports the amount of gold-bearing cyanide precipitates produced in Ecuador and shipped to the United States.

Ecuador has adopted a policy of making the granting of the benefits of its preferential tariff contingent upon the continuance of a favorable balance of trade with the other country. A new agreement just signed with Germany<sup>2</sup> is reported to contain a provision to that effect. Similar provisions are contained in several other agreements or treaties signed by Ecuador.

The statistics of trade between the United States and Ecuador for the year 1937 show the importance of the questions of the balance of trade between the two countries and of the inclusion of cyanide pre-

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<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1937, vol. v, pp. 481 ff.

<sup>2</sup> Signed March 29, 1938; for text, see Ecuador, *Registro Oficial*, April 8, 1938.

cipitates in Ecuador's exports. The figures furnished by Dr. Banda are as follows:

Exports to the United States	54,422,146. sucres
Imports from United States	52,085,893. sucres

Balance favorable to Ecuador 2,336,253. sucres or 4.49%

In the exports to the United States, there are included cyanide concentrates valued at 18,681,943. sucres. If those gold-bearing concentrates are excluded from the exports, the figures are as follows:

Imports from the United States	52,085,893. sucres
Exports to United States	35,740,203. sucres

Balance unfavorable to Ecuador 16,345,690. sucres or 45.93%

If exports of cyanide concentrates are excluded from exportations to the United States, the balance of trade is thus unfavorable to Ecuador by more than 30 percent of the exportations to the United States. On this basis, a surcharge of 50 percent on the duties on American goods could be applied under the provisions of article 8 of Ecuadoran supreme decree of February 13, 1936 (*Registro Oficial* no. 120 of February 20, 1936). Dr. Banda informs me confidentially that the representative of a third country has asked that the surcharge of 50 percent be applied by Ecuador to American goods. He seems to believe that, unless some undertaking on the subject is given by the Ecuadoran Government, the placing of the ruinous surcharge on American goods may be a possibility.

I had several interviews with Dr. Banda in an endeavor to harmonize the commercial policies of our two countries, and was able to advance some additional reasons for entering into a trade agreement. Dr. Banda agreed with those reasons.

The only important obstacle to the negotiation of an agreement is that of the inclusion of an unconditional most favored nation provision. Dr. Banda suggests that a trade agreement containing an unconditional most favored nation provision be signed, but that, at the same time, a private note or undertaking be written or given that the enjoyment of the provisions of the preferential tariff would be suspended in case the balance of trade is unfavorable to Ecuador. An assurance would be given at the same time by Ecuador that the full amount of the exportations of cyanide concentrates and of crude petroleum would be included in the computation of the balance of trade.

Dr. Banda probably would be willing to agree to an unconditional most favored nation agreement with a provision for termination after notice of six months. In that event, it would be agreed in a separate note, memorandum or undertaking that this notice could be given



if the balance of trade between the United States and Ecuador becomes unfavorable to the latter. It is believed to be rather unlikely that the balance of trade will become unfavorable to Ecuador if the full amount of exports of cyanide concentrates is included in the trade balance. It is to be remembered, however, that heavy diversions of exports to other countries occurred during 1937 and that the balance favorable to Ecuador was quite small.

The final suggestion of Dr. Banda is that the experts of the State Department will be able to suggest a formula which will satisfy Ecuadoran policy and not be contrary to the settled policy of the United States.

From the conversations had with Dr. Banda, it is believed that more concessions can be obtained than those offered by the Ecuadoran Ministry of Foreign Relations in its memorandum of September 23, 1937, a translation of which was forwarded to the Department as an enclosure to the Legation's despatch no. 911 of September 27, 1937,<sup>3</sup> on the subject of "Concessions offered by Ecuador on the Proposed Trade Agreement".

The necessity for very prompt action is emphasized by Dr. Banda. He expects to go abroad to a consular post before May 15 and must complete all pending negotiations before the end of April, if possible. His successor is a consular officer now stationed in Europe who has had no experience in trade agreement negotiations and has no knowledge of Ecuador's trade with the United States. The successor would probably not be in a position to negotiate for months.

Dr. Banda has made an extensive study of the entire subject. Because of his education in the United States and his long experience there as a representative of Ecuador, he appears to have a much better understanding of the subject than has any other Ecuadoran.

The conversations with Dr. Banda were conducted on a most cordial basis because of our personal friendship. It is believed that he is genuinely desirous of negotiating a trade treaty with the United States.

Both Minister Gonzalez and Mr. Gade, who is Chargé d'Affaires ad interim upon former's departure from this country, know of my discussions with Dr. Banda, approve of steps for negotiating a trade treaty, and have been informed in advance that I am writing a despatch on the subject.

If the Department desires me to go to Quito to cooperate with Mr. Gade, or with Minister Long upon his arrival, in the negotiation of a trade agreement, I shall be glad to do so. I have studied the trade of Ecuador with the United States for a long time and am familiar with the negotiations already conducted.

Respectfully yours,

DAYLE C. McDONOUGH

<sup>3</sup> *Foreign Relations*, 1937, vol. v, p. 508.

611.2231/226

*The Secretary of State to the Minister in Ecuador (Long)*

No. 301

WASHINGTON, April 15, 1938.

SIR: The Department refers to despatch no. 674 of April 1, 1938 from the American Consulate General at Guayaquil, Ecuador, a copy of which is enclosed herewith for your information. You will observe that Consul General McDonough has had informal conversations with Dr. Francisco Banda, Chief of the Department of Commerce and Consular Affairs of the Ministry of Foreign Affairs of Ecuador, on the subject of the contemplated reciprocal trade agreement between the United States and Ecuador, and that he considers that the prospects for completing such an agreement seem favorable.

With regard to the obstacle which developed in the negotiations, namely, the requested inclusion in the agreement of a trade balance clause, Dr. Banda has suggested that this difficulty might be overcome by Ecuador's accepting the unconditional most-favored-nation principle in the agreement and this Government's undertaking in an exchange of notes that in the event that the trade balance between the two countries should be "unfavorable" to Ecuador the enjoyment of the minimum tariff by the United States would be suspended. The Department is unable to accept this suggestion since it would involve an undesirable qualification of the unconditional principle by making the enjoyment of the minimum tariff contingent upon the state of the trade balance. For the same reason the Department is unable to accept the second suggestion of Dr. Banda, which envisages an exchange of notes providing for the termination of the agreement upon six months' notice if the balance of trade between the United States and Ecuador becomes unfavorable to the latter.

However, this Government would be willing, provided an accord is reached on all other questions, to sign an agreement containing a six-month termination clause. Naturally, either Government might invoke this clause for any reason. In the case of Ecuador, this would include the position which it has taken with respect to the trade balance and the minimum tariff. In so far as this Government is concerned, no mention of the trade balance clause could be included in the agreement itself or in an exchange of notes. It would be expected that during the operation of the agreement the treatment extended by each Government to the other would be that of the most-favored-nation without any condition. If at any time Ecuador should find that for reasons sufficient to itself it would be desirable to terminate the agreement, it would be free to give notice of termination. In this connection, however, the observations made by the Department on the benefits accruing from the principle of equality of treatment set forth in its

memorandum of November 27, 1937<sup>4</sup> handed to the Ecuadoran Ambassador in Washington, should be reemphasized to the local authorities.

With regard to the shipments of cyanide precipitates to the United States and the reluctance upon the part of the Government of Ecuador to include them in the total exports from that country, reference is made to the Legation's despatch no. 923 of October 14, 1937,<sup>5</sup> in which it was estimated that about 70 percent of the proceeds from the exportation of the precipitates returned to Ecuador during that year. In view of the recent increased taxes imposed upon the South American Development Company, it is possible that during the current year the corresponding percentage will be appreciably higher than in former years. Therefore, this should remove any previous reluctance upon the part of Ecuador to include this product in calculating the total exports to the United States.

Should you consider that the present moment is opportune to resume the trade agreement negotiations, you are authorized to do so on the bases outlined above. However, it would appear desirable to limit your action to a discussion of the Ecuadoran position with respect to the trade balance clause, since in the absence of an agreement on that point the Department would be unwilling to proceed further in the premises.

You are authorized, should you so desire, to have Consul General McDonough accompany you to Quito to assist in the negotiations. Instructions in that sense are being sent to Consul General McDonough.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

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611.2231/232 : Telegram

*The Minister in Ecuador (Long) to the Secretary of State*

QUITO, May 12, 1938—noon.

[Received 6 p. m.]

47. Department's instruction No. 301, April 15. In conference with Banda yesterday he thought it might be possible to conclude a trade agreement with unconditional most-favored-nation and 6 months denunciation clauses, provided that his Government could make a unilateral declaration in an entirely separate note to the effect that should the balance of trade become unfavorable to Ecuador this would be considered one of the causes for denouncing the agreement.

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<sup>4</sup> *Foreign Relations*, 1937, vol. v, p. 518.

<sup>5</sup> Not printed.

In spite of all our efforts to the contrary, Banda asserts that such a statement would be absolutely essential to satisfy the National Economic Council and other members of the Government because other trade agreements are conditional as well as foreign countries having conditional agreement with Ecuador.

LONG

611.2231/237

*The Minister in Ecuador (Long) to the Secretary of State*

[Extracts]

No. 16

QUITO, May 13, 1938.

[Received May 24.]

SIR: I have the honor to report that, judging from his attitude, Dr. Banda is now favorably disposed toward concluding a Trade Agreement with us, but not precisely as we would like it.

At the conference held yesterday with Dr. Banda, at which Mr. McDonough and Mr. Gade were present, Schedules I and II of the proposed Trade Agreement were discussed informally. Dr. Banda, it developed, is of the opinion that Schedule I should be confined almost altogether to the articles upon which special concessions were offered by the Ecuadorean Government in a memorandum, a copy and translation of which were forwarded to the Department as enclosures to the Legation's despatch No. 911 of September 27, 1937,<sup>e</sup> on the subject of "Concessions Offered by Ecuador in the Proposed Trade Agreement". He does not wish to discuss any special concessions on the articles upon which that memorandum states that the United States will enjoy the 30% reduction in duties under the Preferential Tariff. He hopes that, by so limiting the discussions, possible objections by the National Economic Council and the Ministry of Hacienda can be avoided.

Dr. Banda states that the recommendations which he would make to his Government, and which he believes would be approved by it, include reductions of 50% in the import duties on hog lard and pure wheat flour and substantially larger reductions in the import duties on passenger automobiles, on omnibuses, and on parts and replacement parts for passenger automobiles, omnibuses, trucks, etc., than were offered last year.

The concessions by Ecuador would be based on the new Ecuadorean Import and Export Tariff (*Ley Arancelaria de Aduanas*) dated March 30, 1938, which is now in force (with certain exceptions). Copies of a pamphlet containing that tariff law were forwarded as

<sup>e</sup> *Foreign Relations*, 1937, vol. v, p. 508.

an enclosure to despatch No. 690 of April 15, 1938,<sup>7</sup> of the American Consulate General, Guayaquil, on the subject of "Revision of Ecuadorean Import and Export Tariff".

Dr. Banda is willing to recommend a reduction in the import duty on only one item upon which a special concession was not offered by Ecuador in its memorandum of September 25, 1937. That item is that of "sewing machines, with or without covers, called table or cabinet machines, for seamstresses and tailors". The duty on each machine under paragraph 647 of the old tariff is 20.00 sucres plus 10 percent, less the 30 percent reduction under the Preferential Tariff, but the duty under paragraph 650 of the new tariff will be 50.00 sucres plus 10 percent, less the 30 percent reduction under the Preferential Tariff. He agreed with the argument that sewing machines are the tools of trade of working people.

A preliminary and tentative statement of the approximate Ecuadorean import duties which might be applicable to the products of the United States under the proposed Schedule I is as follows:

[Here follow proposed tariff schedules.]

In spite of the increases in the duties on the automotive vehicles and parts dutiable under tariff items 687-a, 687-b, 687-c, 687-d, and 687-e (684-a, 684-b, 684-c, 684-d, and 684-e of the old tariff) by the Tariff Law of March 30, 1938, the proposed duties are appreciably lower than the proposals made by the Government of Ecuador in September, 1937. Dr. Banda considers that these additional reductions are the principal new concessions now being tentatively proposed, but is not sure that he can get his Government to agree to them.

Ecuador would grant to the United States the benefits of the Preferential Tariff.

Schedule II has been discussed with Dr. Banda in only a preliminary manner but it is believed that the proposals will be acceptable to Ecuador.

Statistics were supplied to Dr. Banda showing that the importations into the United States of the products of Ecuador to be included in the proposed Trade Agreement amounted during 1935 to more than \$3,000,000 and that the same was true of 1936. Dr. Banda was surprised to learn that the amounts were so large and asked that similar figures be obtained for 1937 so that he can exhibit them to the Ministry of Hacienda, the National Economic Council, and other interested Ecuadorean officials. Telegram No. 49 of May 13, 4 [3] p. m.,<sup>7</sup> has been sent to the Department requesting the statistics.

Respectfully yours,

BOAZ LONG

<sup>7</sup> Not printed.

611.2231/232 : Telegram

*The Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, May 14, 1938—2 p. m.

23. Your telegram no. 47, May 12, noon. The reasons set forth in instruction no. 301, April 15 why this Government could not accept in the proposed trade agreement or in an exchange of notes the trade balance proviso suggested by Ecuador, would obtain equally in respect of a unilateral declaration. Accordingly you may inform the appropriate authorities that while the Department is still prepared to agree to a 6 months cancellation clause which could be invoked by Ecuador for any reason sufficient to itself, this Government cannot consent to be placed on notice on signing the agreement that should the trade balance between the two countries become "unfavorable" to Ecuador for reasons beyond our control, Ecuador proposes to terminate the trade agreement.

HULL

611.2231/238

*The Minister in Ecuador (Long) to the Secretary of State*

No. 23

QUITO, May 17, 1938.  
[Received May 24.]

SIR: I have the honor to report that subsequent to preparation of despatch No. 16 of May 13, Department's telegram No. 23 of May 14, 2 p. m. arrived indicating a unilateral note, as proposed by Dr. Banda, would not be acceptable.

On Monday the 16th, upon learning of this decision Dr. Banda seemed dismayed but eventually expressed his disposition to confer with the National Economic Council. This morning he called at the offices of the Council in company with Mr. McDonough but found only two of the five members. Mr. J. Federico Intriago and Dr. Mogollon were in Quito.

A presentation of the outstanding features of the proposed Trade Agreement was made by Dr. Banda, and listened to attentively by Messrs. Intriago and Mogollon, who said they could see no objection but asked for more details, which will be supplied without loss of time. The other members of the Council are to be contacted as soon as possible. It is hoped that within a week each of the five members will have received sufficient data to justify him in formally expressing his convictions.

Further reports will follow as negotiations progress.

Respectfully yours,

BOAZ LONG

611.2231/240

*The Minister in Ecuador (Long) to the Secretary of State*

No. 29

QUITO, May 21, 1938.

[Received May 27.]

SIRS: In continuation of despatch No. 23 of May 17, 1938, I have the honor to acknowledge receipt of the Department's telegram No. 26 of the 19th<sup>o</sup> asking for an air mail report giving the substance of conversations up to date and to refer to the Legation's telegram No. 51 of May 20, 10 a. m.,<sup>o</sup> advising that the latest details had been covered in air mail despatch No. 12 of May 9,<sup>o</sup> No. 16 of May 13 and No. 23 of May 17.

The National Economic Council, as previously reported by the Legation in its despatch No. 946 of November 2, 1937,<sup>o</sup> includes among its duties the study of Commercial Treaties and the making of recommendations in connection therewith. Dr. Banda, on May 16th, informally presented to the Council for its consideration the matter of a Trade Agreement with the United States and in response to a request of its members is supplying the information upon which the Council's study might be based. As all of the members of the Council are not in Quito at the present moment it is understood that necessary data will be forwarded to Señor Luis Alberto Carbo at Guayaquil whose opinion will be requested by mail or telegraph. Dr. Banda suggested, as Mr. McDonough is returning to Guayaquil temporarily (on May 22nd) that it might be well for him to offer to answer any queries that Mr. Carbo might desire to make.

At a conference held on the 20th with Dr. Banda, Mr. Gade and Mr. McDonough being present, the Doctor briefly reviewed the arguments he contemplated offering to the Council in support of a Trade Agreement. He expects to embody these arguments in a note addressed to the Council which will be submitted to the Foreign Minister for his signature, and assuming the Minister will approve the proposed note, hopes to receive the views of the Council prior to the end of next week (May 28th). This hope is based partially on the assumption that Mr. Carbo will communicate his views to the Council—at latest—by the mail leaving Guayaquil on Wednesday morning, May 25th, which should reach Quito on the afternoon of May 26th.

Dr. Banda is making his plans to leave here so as to reach New Orleans where he has been appointed Ecuadorean Consul General by the end of June. This leaves a very short time in which to conclude negotiations.

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<sup>o</sup> Not printed.

Despatch No. 16 of May 13th referred to Schedule I. The only additions which have been considered since then have been sewing machines under paragraphs 648 and 649 of the Ecuadorean import tariff: a report will be made when Dr. Banda is prepared to make specific recommendations.

Schedule II—as included with the Department's instruction No. 244 of July 10th, 1937<sup>11</sup>—appears to be acceptable to Dr. Banda, who promised to explain to the National Economic Council that it would not be practicable to make additions thereto.

*Text of Trade Agreement*

Doctor Banda prefers a short text instead of the standard general provisions enclosed with the Department's instruction No. 245 of July 16, 1937.<sup>12</sup> However, we hope after a few days, that there will be a change in this respect.

Now that these informal conversations seem to be leading toward something definite the whole matter will again be taken up with the Minister for Foreign Affairs at an early date.

Respectfully yours,

BOAZ LONG

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611.2231/242

*The Consul General at Guayaquil (McDonough) to the Secretary of State*

[Extracts]

No. 708

GUAYAQUIL, May 28, 1938.

[Received June 3.]

SIR: In continuation of Minister Long's despatch no. 29 of May 21, and of my despatch no. 704 of May 23,<sup>13</sup> I have the honor to report that I have had a very satisfactory interview with Señor Luis Alberto Carbo, a member of the National Economic Council, on the subject of the trade agreement negotiations with Ecuador.

I explained the status of the negotiations to him and exhibited the tentative proposed Schedules I and II, emphasizing that Schedule I has not been approved by the Department and that neither is in final form. I explained to him reasons why the proposed trade agreement seems to be desirable from an Ecuadoran point of view.

Sr. Carbo agreed heartily with the idea of the proposed trade agreement and expressed surprise that so much progress had been made.

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<sup>11</sup> Not printed.

<sup>12</sup> Not printed; for the form of the general provisions used in 1937, see draft text of trade agreement sent to Venezuela with instruction No. 153, February 16, 1937, *Foreign Relations*, 1937, vol. v, p. 749.

<sup>13</sup> Latter not printed.



He had believed that there were unsurmountable difficulties in the way of the agreement in view of the fact that negotiations were carried on for so long a time without final success.

His opinion is that Schedules I and II should be put into final form as approved by the Department and that they, together with the general provisions of the trade agreement, should be submitted to the National Economic Council. He suggested how final points in the negotiations might be settled.

The text of the proposed general provisions for inclusion in the trade agreement was exhibited to him and Dr. Banda's objections to some of them were mentioned. The opinion of Sr. Carbo is that formulas can probably be found for reconciling seemingly conflicting points of view on some or all of the articles. He pointed out that the proposed text of Article 8 says that no prohibitions, import or customs quotas, import licenses, etc., shall be imposed by Ecuador, and that, as this country already has such a control system, an agreement might be signed if the United States is willing tacitly to accept its existence, and that the same is true of Article 8. Further, he stated that the questions or objections raised by Dr. Banda must have been raised in successful negotiations by the United States with other countries which have import or exchange controls and other similar conditions or problems. The text of the trade agreement with a Central American country was exhibited to him during our interview to show that the proposed text of the agreement with Ecuador is that which has been adopted with other countries.

Some of Dr. Banda's objections are regarded by Sr. Carbo as not of great importance as the proposed Schedule I covers only a small number of articles and most of them are typical American products in which foreign countries are not much interested and upon which they would not gain much benefit. The fear expressed by Dr. Banda was that the extension to other foreign countries of the benefits of the proposed agreement with the United States would affect a very large portion of the total import trade of Ecuador.

When the proposed text of the agreement and the two schedules are ready to be submitted to the National Economic Council, it is believed that the opinion of Sr. Carbo will undoubtedly be favorable. He is the economic expert of the Central Bank of Ecuador and is recognized as one of the outstanding authorities upon economic and financial subjects in Ecuador. His opinion should carry great weight with other members of the Council.

As Dr. Banda decided not to submit the proposed schedules to the National Economic Council until a draft of the general provisions could be attached, nothing is now pending before that body upon which Sr. Carbo could express a formal opinion.

This despatch is being written without any new instructions from the Legation. It is not known if any important developments have occurred in the negotiations at Quito since my departure from that city on May 22.

Respectfully yours,

DAYLE C. McDONOUGH

611.2231/241

*The Secretary of State to the Minister in Ecuador (Long)*

No. 9

WASHINGTON, June 6, 1938.

SIR: Reference is made to the Legation's telegram no. 58, June 1, 5 p. m., 1938,<sup>14</sup> and previous telegrams and despatches on the subject of the trade-agreement negotiations, and particularly to the changes in the General Provisions suggested by Dr. Banda and to the new complete import control recently established by the Ecuadoran Government.

With regard to the changes in the General Provisions suggested by Dr. Banda and outlined in despatch no. 704 of May 23, 1938 from Consul General McDonough,<sup>14</sup> the Department feels that the former does not fully understand the general objectives sought through these provisions. Therefore, before discussing the individual changes requested, you may find it desirable to emphasize that the two-fold purpose of the General Provisions is to safeguard the reciprocal concessions which may be granted and to insure reciprocal equality of treatment in respect of all forms of trade and payments control. You might find it desirable also to reiterate that your Government is not seeking concessions which Ecuador would find it difficult to accord. However, there are certain provisions to safeguard whatever concessions are exchanged and to insure non-discriminatory treatment which your Government regards as essential in any trade agreement.

Consideration has been accorded to the suggestion made by Dr. Banda for the inclusion of a proviso in Article 2 reading as follows: "Provided that this provision shall not affect the internal taxes or port charges which either high contracting party may impose in the future". Dr. Banda states that by this suggestion he is endeavoring to prevent the binding of port charges and especially of the surcharge on imports now collected in lieu of a former sales tax, namely, the surcharge of 5 percent ad valorem on dutiable articles and of 1 percent on articles on the free list. The purpose of the second sentence of Article 2 is to insure that concessions in respect of ordinary import

<sup>14</sup> Not printed.

duties will not be nullified by increases in other charges incidental to importation. Since the surcharge on imports collected in lieu of the former sales tax is exclusively an import charge, it would be bound against increase by the sentence under reference. Accordingly, the Department must insist that no change be made in this Article which would weaken its purpose. As concerns the port charges, however, the Department does not construe this provision to apply to charges, such as port charges, to cover the cost of services rendered.

Due note has been taken of the change suggested in Article 6 involving the deletion of the words "national origin or" and the word "other". The reason for this suggestion is to accord to the municipalities of Ecuador the right to levy taxes on imported liquors. This Article is designed to insure that, after clearance through customs, merchandise imported from the other country will not be discriminated against by taxes other or higher than those applicable to like domestic merchandise. It covers all products and it is regarded as one of the necessary safeguards of the ordinary duty concessions. Inasmuch as the deletions suggested would leave the way open for the imposition on all imported goods, after entry through the customs, of higher internal taxes than those imposed on like products of national origin and would nullify the purpose of the Article, they cannot be accepted. However, the Department would be disposed to give consideration to the inclusion of a provision permitting the municipalities of Ecuador to levy taxes on imported liquors.

With regard to the change requested in Article 7 so as to permit Ecuador's requiring the payment of import duties in terms of dollars, the Department believes that a satisfactory formula can be devised to meet the wishes of Dr. Banda. However, it is thought that this question might be deferred until a decision is reached with respect to the more important matter of the import control measure.

Dr. Banda has suggested the omission of Article 8 as he considers that it would be inconsistent with the existence of the present complete control of imports into Ecuador. Apparently what Dr. Banda has in mind is the possibility of import quotas being established in connection with the existing import control system. Since Article 8 refers solely to schedule articles, Ecuador would be free to impose quantitative restrictions with respect to all others. As concerns schedule articles the Department regards as essential that duty concessions be not nullified by quantitative restrictions. This is the general purpose of the Article. However, it is recognized in the Article that it might be necessary to impose restrictions under certain specified conditions including the condition of an emergency situation calling for action such as "to maintain the exchange value of the currency of the country". Therefore, and particularly in view of the rela-

tively few articles that would be included in the schedule, this Article would seem to provide reasonable flexibility to take care of emergencies that might arise.

Dr. Banda has suggested the deletion of paragraph 2 of Article 9 on the grounds that it would prevent Ecuador's maintaining its present complete control of imports. Apparently the import control decree envisages the regulation of imports and payments therefor by means of permits which will be issued to importers, more or less arbitrarily, on a day-to-day basis, and taking into consideration the balance of trade of the country supplying the merchandise for which application is made as well as the availability of exchange. The Department fails to see how, under such a system, it would be possible to determine that it was being applied in a non-discriminatory manner, and that the United States was receiving an equitable share of the total exchange available. Experience with former control systems in Ecuador would indicate that during periods of exchange sufficiency the United States has received an equitable share of the availabilities. However, it is not unlikely that in the event of exchange stringency discriminations of various kinds might arise under the new import control system. Paragraph 2 of Article 9 was worked out for the very purpose of guarding against the uncertainties and arbitrary features inherent in systems of import control such as that recently established in Ecuador, in view of which the Department cannot agree to its omission. Moreover, this provision, to which we attach great importance, is included in our trade agreements with other countries. If we should enter into an agreement with Ecuador permitting imports from the United States to be controlled without any global quotas being established, effective for at least three months, we would thereby weaken our position to insist upon the inclusion of such a provision in trade agreements with other countries. Naturally, the three months' period mentioned in this paragraph refers to the minimum period during which a quota will be in force and not to an advance notice of three months.

In discussing with Dr. Banda the changes proposed by him and the Department's minimum requirements, you should assure him that the Department has given most careful and sympathetic considerations to his suggestions as well as to the problems created by Ecuador's present difficult exchange situation. If it should develop that the Ecuadoran Government is not now in a position to agree to these provisions, the Department would then have to give consideration to suspending the negotiations until a more propitious time.

I would add for your confidential information that the Department would prefer to have no trade agreement with Ecuador rather than to have one which would fail to improve our position, would contain

inadequate assurances against discriminations arising under arbitrary import and exchange control systems, and would weaken our position in dealing with other governments.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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611.2231/244 : Telegram

*The Minister in Ecuador (Long) to the Secretary of State*

QUITO, June 14, 1938—9 a. m.

[Received 2:45 p. m.]

67. Department's instruction No. 9, of June 6th. Banda declares that main points raised by the Department with regard to import control can not well be considered until the new exchange and import control regulations have been issued. They are expected to be ready this week. Despatch by air mail.

LONG

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611.2231/249

*The Minister in Ecuador (Long) to the Secretary of State*

No. 62

QUITO, June 14, 1938.

[Received June 21.]

SIR: In acknowledgement of the Department's instruction No. 9 of June 6, 1938, and with reference to my telegram No. 67 of June 14, 9 a. m., 1938, regarding the general provisions of the proposed Trade Agreement with Ecuador, I have the honor to report that Mr. Gade and I today had an interview with Dr. Banda, at which we acquainted him with the Department's observations contained therein.

With respect to Article 2, Dr. Banda thought that the Ecuadorean Government would not consent to bind the surcharges on imports now collected in lieu of a former sales tax, inasmuch as this binding would have to apply to other countries under their commercial treaties with Ecuador, and would thereby prevent the Government from collecting the equivalent of an increased sales tax on a large percentage of imports. Should the cost of living continue to rise through a depreciation of the sucre, he added, the salaries of Government employees would have to be raised and the Government would be obliged to find increased revenue, chiefly from customs sources, for this purpose.

With regard to Article 6, Dr. Banda asserted that it would be necessary to repeal the law granting Municipalities the right to tax foreign products, in order to comply with the Department's views. While

the municipalities, he stated, collected very little from this source, he felt sure that they would strenuously oppose being deprived of this right. Dr. Banda added that very few American products would be affected in competition with domestic products since there are no comparable products. Moreover, in relation to similar foreign products, of course, the United States would enjoy parity of treatment.

Referring to Article 7, we brought the matter up with Dr. Banda and mutually agreed that the consideration of this question might well be deferred until the other more serious obstacles had been overcome.

As Articles 8 and 9 have to do with Exchange Control, Dr. Banda felt that it would be necessary to await the issuance of the additional Exchange Control Regulations, which are now being drafted.

Taken as a whole Dr. Banda thought that the Department's position as explained in the instruction under acknowledgement raised some very substantial obstacles but expressed the hope that if, when the Exchange Control Regulations were issued, they offered no insurmountable restrictions, then the other obstacles might be overcome.

Dr. Banda reminded us that the Law on the Control of Imports (Legation's despatch No. 30 of May 21, 1938<sup>15</sup>) provided that in issuing permits consideration should be given to the balance of trade of the country supplying the merchandise, the availability of exchange for that country, and the needs of Ecuador for the articles. In this connection he pointed out that according to Customs House figures for the first three months of this year, the trade balance between Ecuador and the United States was unfavorable to Ecuador. But for the fact that a similar condition exists with respect to the trade of other nations, we might assume that the Exchange Control would work a hardship upon our trade, without intentional discrimination on the part of Ecuador.

First Quarter 1938 figures received from the Consul General at Guayaquil of five principal countries are as follows:

<i>To Ecuador from:</i>	<i>Sucres</i>	<i>From Ecuador to:</i>	<i>Sucres</i>
United States	13, 874, 532	United States	10, 862, 526
Germany	12, 139, 951	Germany	4, 869, 750
United Kingdom	4, 137, 278	United Kingdom	1, 024, 599
Japan	5, 916, 013	Japan	192, 518
France	1, 547, 832	France	1, 004, 092

It appears that the figures include shipments of minerals as is required by Ecuadorean statistical laws or practice. During that period of three months the exports of gold and silver in the form of cyanide precipitates ("tierra mineral") to the United States amounted to about 5,706,764 sucres.

<sup>15</sup> Not printed.

Total imports into Ecuador from January 1 to March 31, 1938, were 44,900,332 sucres (\$3,741,692.) and total exports during the same period amounted to 27,828,353 sucres (\$2,319,030). Imports during the same period last year were \$2,314,823 and exports were \$2,985,321. Imports from all countries during the first three months of 1938 exceeded those during the same period of last year were about 22% below those of the last.

Respectfully yours,

BOAZ LONG

611.2231/244 : Telegram

*The Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, June 15, 1938—6 p. m.

31. Your telegram no. 67, June 14, 9 a. m. The Department is unable to share the views expressed by Dr. Banda. On the contrary it feels that the present moment is a particularly propitious one for the discussion of the main points raised in the instruction of June 6th since in this way the authorities formulating the regulations would be apprised of the views of this Government and if they so desired could take them into account with a view to avoiding regulations which would make it more difficult for the two governments to reach an agreement on the basis for trade agreement negotiations. Accordingly you are requested to discuss the matter again in the light of the foregoing.

HULL

611.2231/247 : Telegram

*The Minister in Ecuador (Long) to the Secretary of State*

QUITO, June 17, 1938—10 a. m.

[Received 5:43 p. m.]

69. Department's telegram No. 31, June 15, 6 p. m. Banda states that the new import and exchange regulations have already been drafted and will shortly be published. Their contents up to now are secret even from the Government. Central Bank would not consider changes in the regulations without a favorable report from the National Economic Council which is now absent from Quito. Banda promises to submit the matter to it on Monday or Tuesday. Despatch by air mail.<sup>16</sup>

LONG

<sup>16</sup> Despatch No. 65, June 17, not printed.

611.2231/251a: Telegram

*The Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, June 29, 1938—7 p. m.

32. Your letter of June 21, to Duggan.<sup>17</sup> The Department believes that an agreement on all principal questions in the general provisions of the proposed trade agreement should be reached before undertaking definitive negotiations on commodities, failing which consideration would have to be given to suspending the present discussions.

While a decision has not yet been reached regarding the changes in Schedule I suggested by Banda, this Government in reaching its decision will be guided by its previous statement that it would not expect in the way of concessions from Ecuador more than that Government feels able to grant. Nevertheless, you should insist that any lists of proposed concessions presented by Banda for consideration by the Economic Council should include Schedules I and II as originally transmitted by the Department, irrespective of any recommendations which he may wish to suggest to that body.

HULL

611.2231/257

*The Minister in Ecuador (Long) to the Secretary of State*

No. 82

QUITO, July 5, 1938.  
[Received July 12.]

SIR: With reference to my despatch No. 78 of June 30, 1938,<sup>17</sup> regarding the trade agreement negotiations, I have the honor to report that the National Economic Council received me, accompanied by Mr. Gade and Dr. Banda, on July 3rd. I took occasion to emphasize the importance of the General Provisions, adding that the Schedules were tentative and could be taken up after an agreement had been reached on the former. In this connection I pointed out that the United States was asking for bindings on a very limited number of articles, under Article I, and did not wish to demand more than Ecuador could well afford to concede. Señor Intriago, the Chairman of the Council, expressed the earnest hope of his Government that an agreement could be arranged. He seemed to think that the General Provisions were not incompatible with the Ecuadorean import control system. He went on to say, however, that the question of some of the items on Schedule I would require careful study, particularly lard and flour. He said that his Government was somewhat reluctant to grant concessions on these important articles, especially on lard,

<sup>17</sup> Not printed.



as under the most-favored-nation clause they would have to be extended to other countries as well. He added that Ecuador would prefer to make concessions on articles on the Preferential Tariff or on products which would benefit the United States only. Dr. Banda pointed out that it was almost impossible to find such exclusive articles. Señor Intriago also mentioned automobiles, which, he hinted, might have to be restricted in some way as a luxury article, on account of the economic situation of the country. In conclusion he declared that the National Economic Council would give careful and sympathetic consideration to the proposed agreement and that we could discuss it again with them at a later date.

Respectfully yours,

BOAZ LONG

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611.2231/264 : Telegram

*The Minister in Ecuador (Long) to the Secretary of State*

QUITO, July 22, 1938—5 p. m.

[Received 11:25 p. m.]

76. Department's June 28 [29], 7 p. m. Impossible to induce National Economic Council to approve the general provisions prior to their decision as to what they will be willing to include in Schedule I as they are required to report on the agreement as a whole.

Ecuador seems to be favorably disposed toward concluding trade agreement prior to August 10 but members of the National Economic Council are devoting painstaking consideration to every item on Department's original Schedule I and it looks as though their report may be delayed. We figure that we have at most two working weeks to terminate negotiations but fear little can be accomplished after August 1st owing to confusion prior to change of Government.

While no offer has been received from National Economic Council regarding bindings it would be helpful if the Department could telegraph whether or not it would accept bindings at 1938 tariff rates on items which were desired bound at old rates.

The item numbers under the 1938 tariff with the old and new duties on each are as follows:

9-b prepared milking 40 to 45 centavos; 77-c rolled oats 30 to 35 centavos; 644 mechanical specie counters 10 to 20%; 650 sewing machines 14 sucres plus 7% to 35 plus 7; 652 typewriters 15 to 20%; 667 storage batteries 20 to 25%; ex 677 electric refrigerators 15 to 20%; 692-a motor trucks free to 10%; 1089-a calf leather 7½ to 8½ sucres. 524 artisan tools ex 526 machettes, and 608 industrial machinery are unchanged.

LONG

611.2231/265 : Telegram

*The Minister in Ecuador (Long) to the Secretary of State*

QUITO, July 23, 1938—3 p. m.

[Received 8:45 p. m.]

77. Members of National Economic Council are resigning and Council may be abolished. Council is thus making no report on trade agreement, although a member thereof informed the Foreign Minister by telephone this morning that the Council approved the trade agreement in principle but would refrain from submitting a written report in view of the fact that it was disintegrating.

Matter is again in the hands of the Foreign Minister with whom I am conferring again on Monday.

Referring to Department's telegram No. 32, June 29, 7 p. m., it now appears essential that the Department instruct me by telegraph at earliest possible date, whether or not Schedule I, proposed by the Ecuadorian Foreign Office, can be accepted if more concessions can not be obtained. I shall endeavor in any event to obtain additional concessions but immediate action seems imperative due to the approaching change in Government. Despatch by air mail.

LONG

611.2231/266 : Telegram

*The Minister in Ecuador (Long) to the Secretary of State*

QUITO, July 26, 1938—8 a. m.

[Received 1:40 p. m.]

79. Spent 3 hours yesterday afternoon with Ortiz, Banda's successor who can make no final offers until after he confers with others but it looks as though he will recommend approval of Schedule I substantially as Foreign Minister sent it to Finance Minister with his note of June 27th and will also recommend adding thereto certain bindings at new task [*sic*] and certain additional concessions.<sup>19</sup>

Our next meeting is Wednesday afternoon.

Full power mentioned in Department's telegram No. 34, July 19, 7 p. m.,<sup>20</sup> arrived yesterday.

We are hoping new translation mentioned in Department's telegram No. 35, July 23, 3 p. m.,<sup>20</sup> may arrive in air mail due here July 30.

Our time to finish negotiations is now getting very short if we are to sign opportunely before change of Government which should be done by all means. Supreme Chief is moving from Presidential

<sup>19</sup> Further correspondence regarding final agreement on schedules and signing of agreement not printed.

<sup>20</sup> Not printed.

mansion to his own private residence. This and many other incidents indicate that he will not continue in power after meeting of Assembly.

LONG

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611.2231/281a : Telegram

*The Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, August 6, 1938.

43. Stand by for detailed instructions. Proviso to concession on balsa timber absolutely necessary. If agreement already signed, exchange of notes necessary. If agreement not signed, proviso should be inserted in schedule II.

To facilitate further instructions, telegraph that agreement has been signed if that is the case.<sup>21</sup>

HULL

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611.2231/281b : Telegram

*The Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, August 6, 1938—[5 p. m. ?]

44. Department's 43, 6th.

1. If agreement not yet signed, add at the very end of schedule II in center column the following:

"Provided, that nothing in this Agreement shall be deemed to prevent the application of a tax at the rate provided for above to sawed balsa timber or to require a deduction on account of planing, tonguing, or grooving in determining board measure for the purpose of assessing import taxes on balsa lumber and timber."

Change wording in center column of paragraph 806 (a) to following:

"Naranjilla (*Solanum Quitoense* Lam) juice, not specially provided for, containing less than one-half of one per centum of alcohol".

Change wording in center column of paragraph 806 (b) to following:

"Concentrated naranjilla (*Solanum Quitoense* Lam) juice, fit for beverage purposes".

Change wording in rate column under 806 (b) to following:

"35 cents per gallon on the quantity of unconcentrated natural fruit juice contained in such concentrated juice as shown by chemical analysis".

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<sup>21</sup> The Minister in Ecuador in telegram No. 91, August 6, 2 p. m., stated that the agreement had been signed that morning (611.2231/278).

Change wording of center column under paragraph 1504 (b) (1) to following:

"Hats and hoods, composed wholly or in chief value of the fiber of the *carhudovica palmata*, commercially known as toquilla fiber or straw: not blocked or trimmed, and not bleached, dyed, colored, or stained".

Under paragraph 1778 in center column, eliminate the words "vegetable ivory".

2. If agreement has been signed, the foregoing changes should be made in text of agreement, which should then be re-signed. If this not possible, changes should be incorporated in amendatory exchange of notes or protocol to be signed by signers of agreement and dated day of agreement. Such notes or protocol would of course be proclaimed as part of agreement. Make every effort to have changes embodied in agreement itself.

Department regrets exceedingly the need for making these changes.

HULL

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611.2231/281c : Telegram

*The Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, August 6, 1938—7 p. m.

45. Department's 44, August 6. The following explains the necessity of inserting proviso at end of Schedule II: Sawed balsa timber classified under Paragraph 1803 (1) of the Tariff Act is free of duty but under ruling of the Treasury Department it is subject to the import tax imposed by Section 601 (c) (6) of the Revenue Act of 1932.<sup>22</sup> This ruling is now being contested by importers in the customs courts. In the Revenue Act of 1938,<sup>23</sup> passed recently, Congress enacted into legislation the Administrative interpretation of the 1932 Act by the Treasury Department. If the Treasury ruling should eventually be upheld by the courts, the tax will continue to be imposed on balsa and other timber. If the courts reverse the Treasury ruling, the application of the tax to all timber will depend upon a change in language in our present trade agreement with Canada, which is now being revised. The proviso is necessary in view of the uncertainty as to whether existing law requires the assessment of the tax and, if not, as to whether the change contingently provided for in existing legislation will become effective. Should it be held at some time in the future that the tax is required to be imposed on balsa timber, the situation will, as a matter of fact, be the same as it is at present, in view of the Treasury Department's

<sup>22</sup> Approved June 6, 1932; 47 Stat. 169, 259.

<sup>23</sup> Approved May 28, 1938; 52 Stat. 447, 570.

consistent practice during the past 6 years of assessing a tax on balsa and other timber.

The insertion of the proviso in Schedule II will not, therefore, subject balsa timber imported from Ecuador to the payment of any taxes which are not being assessed at the present time. The basis for determining board measure stated in the proviso is that customarily used in the United States (see Paragraph 401 of Tariff Act of 1930<sup>24</sup>) and is the basis on which measurement is being determined at present.

The other changes requested in Schedule II are required for legal reasons in order to make the wording of the provisions in question conform to that of the corresponding paragraphs of the Tariff Act of 1930.

HULL

611.2231/279 : Telegram

*The Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, August 8, 1938—10 a. m.

46. Your 92, August 6, 7 p. m.<sup>25</sup> No release whatever will be issued to press here and no publicity whatever will be given until we know Schedule II changes (Department's 44) have been made. Make certain Ecuadorans withhold any publicity until this matter settled. Rush reply.

HULL

611.2231/282 : Telegram

*The Minister in Ecuador (Long) to the Secretary of State*

QUITTO, August 8, 1938—5 [1<sup>2</sup>] p. m.

[Received August 8—4:03 p. m.]

95. We have exchanged notes as instructed in Department's triple priority 44, August 6, 5 p. m. but Foreign Office reply dated the 8th agrees to the changes suggested on the assumption that the modifications in question "do not alter the regulation thereof nor the substantial character of the clauses stipulated".

Ortiz says that he is almost certain he can have the date changed to the 6th or have the decree promulgating trade dated the 8th.

If this is done will above phraseology be acceptable?

LONG

<sup>24</sup> Approved June 17, 1930; 46 Stat. 590, 629.

<sup>25</sup> Not printed.

611.2231/284 : Telegram

*The Minister in Ecuador (Long) to the Secretary of State*

QUITO, August 8, 1938—4 p. m.

[Received 7 p. m.]

97. Department's telegram No. 46, August 8, 10 a. m. and my telegram No. 95, August 8, 1 [5?] p. m. Exchange of notes now completed both bearing date August 6th. Executive decree is expected to be signed shortly: will advise.

Because Ministries have ceased administrative functions it is believed further changes could not be made.

LONG

611.2231/282 : Telegram

*The Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, August 8, 1938—7 p. m.

49. Your 95 and 97 August 8.

1. It is assumed that decree promulgating agreement as amended by notes will be dated 8th or 9th.

2. Please make every effort to get the Ecuadorans to substitute for the words quoted in your 95 the following in paragraph at end of reply note:

"It is the understanding of my Government that these changes do not alter the substance of aforementioned concessions."

3. Ecuadoran wording is not clear and might be construed to qualify acceptance of changes. The wording proposed in 2 above, in separate paragraph at end, is believed to be more accurate and does not qualify acceptance.

4. Department will await word from you in regard to text of reply note and date of decree before issuing announcement of signature of agreement.

HULL

611.2231/285b : Telegram

*The Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, August 8, 1938—8 p. m.

50. 1. In a number of trade agreements previously concluded, the reservation covering arms, etc. in the general reservations article has appeared in language similar to that in Article 16 of the Ecuadoran agreement. Recently this reservation has been revised by the addition of another clause, intended to clarify the scope of the reservation. It

would be desirable, therefore, to communicate to the Ecuadoran Government this Government's position in this matter in a note to be addressed by you to the appropriate official, substantially as follows:

"I have the honor to make the following statement of my understanding of the agreement reached through recent conversations in Quito by representatives of the Government of the United States and the Government of the Republic of Ecuador, with reference to the second paragraph of Article XVI of the trade agreement signed on August 6, 1938, which is that nothing in that agreement shall be construed to prevent the adoption or enforcement by either Government of measures relating to neutrality."

2. The note should be handed the appropriate official prior to August 10th.

3. The text of your note and reply thereto would be published in due course.

HULL

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611.2231/311 : Telegram

*The Minister in Ecuador (Long) to the Secretary of State*

QUITO, August 19, 1938—5 p. m.

[Received August 20—1:05 a. m.]

110. My note regarding neutrality addressed to His Excellency, Dr. Luis Bossano, Minister for Foreign Affairs, Quito, is No. 40 and dated August 13th. First paragraph thereof reads textually as quoted section in Department's telegram No. 50, August 8, 8 p. m., and the remainder of the note reads as follows:

"If the foregoing is the understanding of the Government of Ecuador it is suggested that Your Excellency be good enough to signify it in a note, in which case it will be understood that the present note and Your Excellency's reply thereto will reflect the understanding of both Governments as to the second paragraph of the trade agreement.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest and most distinguished consideration."

The reply dated August 19th was received late today and translation reads as follows:

[Here follows text of note, not printed. The Ecuadoran Minister for Foreign Affairs later substituted for this note the notes dated August 19 and August 20 enclosed with despatch No. 165, August 23, printed on page 534. The change was merely one of form and not of substance.]

Certified copies of the exchange of notes will be forwarded by next air mail leaving Guayaquil, August 23.

No use was made of unilateral suggestion contained in Department's telegram No. 55 of August 18, 4 p. m.,<sup>26</sup> because I was hoping for a reply simply agreeing with our understanding.

LONG

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611.2231/311 : Telegram

*The Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, August 20, 1938—2 p. m.

56. Your 110, August 19, 5 p. m. While the Foreign Minister's reply is satisfactory for the purpose of confirming our interpretation, the Department does not intend to publish the exchange of notes. You should so inform Doctor Tobar and add that the Department naturally would not, under such circumstances, wish to have the notes published by the Ecuadoran Government.

HULL

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611.2231/824

*The Minister in Ecuador (Long) to the Secretary of State*

No. 165

QUITO, August 23, 1938.

[Received August 30.]

SIR: With reference to my telegram No. 111 of August 23, 11 a. m., 1938,<sup>26</sup> regarding the second clause of Article XVI of the Commercial Agreement between the United States and Ecuador, I have the honor to transmit herewith certified copies of note No. 75-DC of August 19, 1938 and note No. 77-DC of August 20, 1938, addressed to me by Dr. J. Tobar Donoso, the Minister for Foreign Affairs, regarding neutrality.

Translations of these notes are also enclosed for the Department's information.

Respectfully yours,

BOAZ LONG

[Enclosure 1—Translation]

*The Ecuadoran Minister for Foreign Affairs (Tobar Donoso) to the American Minister (Long)*

No. 75-DC

QUITO, August 19, 1938.

MR. MINISTER: I have had the honor of receiving Your Excellency's note No. 40, wherein you were good enough to inform me of the

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<sup>26</sup> Not printed.



manner in which Your Excellency interprets the second paragraph of Article XVI of the Treaty of Commerce concluded on the sixth instant by the Governments of the United States and Ecuador, and in which you enquire if the view of the latter coincides with that of Your Excellency.

In reply I am pleased to inform Your Excellency that I believe that the paragraph referred to contains nothing that may be interpreted as opposed to the adoption or application by either of the High Contracting Parties of measures relative to neutrality.

I avail myself [etc.]

J. TOBAR DONOSO

[Enclosure 2—Translation]

*The Ecuadoran Minister for Foreign Affairs (Tobar Donoso) to the American Minister (Long)*

No. 77-DC

QUITO, August 20, 1938.

MR. MINISTER: With reference to Your Excellency's note No. 40, regarding the second paragraph of Article 16 of the Commercial Treaty, recently signed between Ecuador and the United States of America, and to my number 75-DC, dated yesterday, I have the honor to bring the following points to Your Excellency's attention:

I believe it necessary to declare that my country adheres in this matter of neutrality to the new concepts of International Law, which demand differential treatment of the parties in conflict according to the justice of their cause; and that it will respect the obligations which to this end are derived from the signature of the Pact of the League of Nations.

I am sure that Your Excellency will share with me the opinion that the great Republic, worthily represented by Your Excellency, will also maintain in due course, those new concepts. As Nicholas Murray Butler said in 1917, "there can be no neutrality in a war of aggression. It is necessary that we take our place by the side of the nation which carries out its word; support cannot be given a State which through pride, ambition, ill will, or any other reason breaks its promise and turns loose on us a storm such as that of 1914."

The statements of President Hoover in 1930 confirm that doctrine which is so necessary for international peace.

I avail myself [etc.]

J. TOBAR DONOSO

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[For text of the reciprocal trade agreement between the United States and Ecuador, signed August 6, 1938, see Executive Agreement Series No. 133, or 53 Stat. 1951.]

**PROTECTION OF THE INTERESTS OF THE SOUTH AMERICAN  
DEVELOPMENT COMPANY**

822.5072/6

*The Chargé in Ecuador (Gade) to the Secretary of State*

No. 999

QUITO, December 27, 1937.

[Received January 4, 1938.]

SIR: With reference to my despatch No. 955 of November 9, 1937,<sup>28</sup> on legislation discriminating against alien employees in Ecuador, I have the honor to inform the Department that under Decree No. 27 of December 13, 1937, foreign companies established in Ecuador will be obliged to pay their Ecuadorean employees and workers with over twenty years of service, monthly pensions varying from one to one and one-half percent of the total salary earned by the employee during the preceding ten years of his employment. Foreign employees may also avail themselves of the benefits of the Decree if they make their residence in Ecuador.

The text of the foregoing Decree as published in the *Official Register* of December 14, 1937, and an English translation thereof,<sup>28</sup> are enclosed.

Attorneys of American interests here are unable to say at the present time to what extent the Decree will affect their respective companies, as it will depend upon whether the pension system is applied retroactively or not. The Guayaquil and Quito Railway Company has many employees, including several Americans, who may become entitled to immediate heavy pensions. It is believed that the All America Cables and the South American Development Company will also be affected, while the Cia. Bananera del Ecuador, which has been in Ecuador only three or four years, will not suffer at the present time.

Further information on this matter will be transmitted to the Department in the near future.

Respectfully yours,

GERHARD GADE

822.5072/3 : Telegram

*The Secretary of State to the Chargé in Ecuador (Gade)*

WASHINGTON, January 8, 1938—3 p. m.

1. Your despatch no. 999 of December 27. Unless you perceive objection, you are requested to call on the Minister for Foreign Affairs

<sup>28</sup> Not printed.

at the earliest opportunity and have a full and friendly discussion with him regarding the provisions of Decree No. 27 of December 13, 1937.

You may inform him that the decree appears to work an unusual hardship on American companies already established in Ecuador and that it contains features discriminating against foreign, including American, companies which are not applied to Ecuadoran companies. You should express the hope of this Government that the Ecuadoran Government may find it possible to give early consideration to a modification of this measure.

If necessary you may also point out the seeming inconsistency of a system which may provide a monthly pension which is considerably higher than the monthly salary received for active work just prior to retirement.

HULL

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822.6341 South American Development Co./34

*The Consul General at Guayaquil (McDonough) to the Secretary of State*

No. 616

GUAYAQUIL, January 13, 1938.

[Received January 18.]

SIR: I have the honor to report that the South American Company, of 19 Rector Street, New York, N. Y., operating a gold mine at Zaruma, Ecuador, and having its address in Ecuador at Postoffice box 655, Guayaquil, has requested this Consulate General to forward to the American Chargé d'Affaires at Quito and to the Department the enclosed copies and translations of various communications between the Chief Executive of Ecuador and the resident manager of the Company. A copy of this despatch and of its enclosures is being sent today to the Chargé d'Affaires ad interim, American Legation, Quito.

These communications are in regard to the demand made by the Government of Ecuador for a 100 percent increase in the production tax on the Company and for the payment of \$600,000., United States currency, in taxes in advance. The payment in advance would be part of the increased taxes that would be due over a period of 15 years.

The letter (copy enclosed)<sup>29</sup> from the Company received by the Consulate General enclosing the copies of the communications with the Government of Ecuador outlines the recent developments. The letter invites attention to the fact that the terms proposed for the revision of its contract with the Government of Ecuador, approved by Congress and executed May 8, 1934,<sup>30</sup> are very unfavorable and con-

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<sup>29</sup> Not printed.

<sup>30</sup> For text, see Ecuador, *Registro Oficial*, August 30, 1934.

stitute almost a complete derogation on the part of the Government of the Company's contractual rights thereunder.

The Company's letter enumerates the unfavorable decrees or demands by the Government which include the following: the discriminatory decree of December 13, 1937, requiring foreign enterprises to pension all employees having over 20 years of service; the decree of December 30, 1937,<sup>31</sup> prohibiting the granting of free entry on imports; and the demand for an increased production tax and for payment of a very large sum in advance.

The Company has made a formal protest to the Ecuadoran Government against the pension decree. It will make a formal protest as soon as it is denied free entry on supplies and equipment covered by its contract with the Government. The question of the demand for the payment of a 100 percent increase in the tax on production with a large sum to be paid in advance under the heading of taxes for the next 15 years is being considered by the board of directors in the United States. The terms of the enclosed memorandum from the Supreme Chief of Ecuador are regarded by the Company as practically confiscatory.

A period of ten days has been given by the Government of Ecuador to the Company for the latter's reply to the memorandum. In view of the extreme urgency and importance of the subject, the Company has requested the Consulate General to forward the copies of the communications directly to the Department to save time instead of sending them through the normal channel of the American Legation, Quito.

Interviews have been had on the subject with Mr. A. M. Tweedy, the General Manager of the Company, who has just arrived from the United States and who called at the Department about two weeks ago when only the pensions decree had been approved.

Mr. Tweedy points out that the Company's contract of May 8, 1934, was made with a constitutional government in Ecuador and was ratified by the Congress, and that it was intended definitely to end all questions. He regards all three points or demands as very detrimental and states that any one of them would seriously affect operations.

The Company has been operating in Ecuador for 40 years. It has over 200 employees who have been working more than 20 years for it and thus are entitled to receive pensions which would seem to be greater than their present active pay. Mr. Tweedy says that not only would very heavy current payments be necessary but prohibitive outlays would have to be made for setting up a pension reserve for the future, and that the Company could not operate on this basis.

The abolition of free entry guaranteed under the contract is also regarded as vital by Mr. Tweedy. He states that the new Cotopaxi

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<sup>31</sup> Decree No. 124, Ecuador, *Registro Oficial*, January 8, 1938.

Exploration Company, an American corporation controlled by the same interests and not yet in operation, would have to suspend operations, and that the South American Development Company itself would have to close down as no great gold reserves are visible and the Company could not afford to do development work. He mentions the high duties charged on such necessary supplies as dynamite and cyanide.

The demand for payment of double the present tax on the gross production of the Company is regarded by Mr. Tweedy as practically confiscatory. The Company does not have available funds for the payment of taxes for 15 years in advance and could not operate its low grade ores under such heavy taxation.

Mr. Tweedy requests good offices to prevent the matter from coming to a head so as to obviate more serious difficulties later.

The South American Development Company is the largest American interest in Ecuador and has several millions of dollars invested in this country. It is the only producer of gold in large quantities in Ecuador.

Almost identical demands have been made of the Anglo-Ecuadorian Oilfields Ltd., a British concern which is the principal producer of petroleum in Ecuador. The main difference in the position of the oil company is that it has not been operating in Ecuador for 20 years and thus has no employees eligible to pension.

The British Consul at Guayaquil suspects that the present measures against foreign capital in Ecuador may have been inspired by Italian influence in Quito exerted through the Italian Military Mission so that Italian or German capital can get control of the mineral wealth of Ecuador. The American gold mining company and the British oil company are the only two large and important producers of mineral products in Ecuador.

According to a press report\*, the Supreme Chief of Ecuador in a public statement on the subject of his determination to charge higher taxes on the production of mines and oilfields in Ecuador cited as a precedent the confiscation by the Government of Bolivia of the properties of the Standard Oil Company of Bolivia.<sup>32</sup> The press † has also published a report that Sr. Gómez Morin, the Mexican economist who visited Ecuador recently, had stated that in Mexico the oil companies had to pay a tax of 40 percent on their production to the Government.

The pension decree was reported in my despatches Nos. 599 and 607,

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\* *El Universo*, Guayaquil, January 11, 1938. [Footnote in the original.]

<sup>32</sup> See *Foreign Relations*, 1937, vol. v, pp. 275 ff.

† *El Universo*, Guayaquil, January 13, 1938. [Footnote in the original.]

dated December 27 and 31, 1937, respectively.<sup>33</sup> That decree is an express discrimination against foreign enterprises operating in Ecuador.

A preliminary report of the decree abolishing free entry except for diplomatic and consular officers is given in my despatch No. 606 of December 31, 1937.<sup>34</sup> The decree is No. 124 of December 30, 1937. This decree violates the terms of the contracts of a number of foreign firms, mainly American and British interests.

The question involved in the abolition of free entry and the projected increase in production tax on the American gold mining company is not merely that of a foreign concern coming into a country and being subject to the changes in its laws affecting all persons or companies in general. A solemn contract executed by a constitutional government of Ecuador has been violated.

Respectfully yours,

DAYLE C. McDONOUGH

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822.6341 South American Development Co./33 : Telegram

*The Chargé in Ecuador (Gade) to the Secretary of State*

QUITO, January 17, 1938—11 a. m.

[Received 7:35 p. m.]

5. With reference to despatch No. 616, January 13 from Consul General at Guayaquil. Ten-day period accorded South American Development Company to accept revision of its contract expires on January 21. The Supreme Chief threatens to send troops to take possession of the properties of this company as well as those of the Anglo-Ecuadoran oil fields if those companies refuse to accept the Government's proposals.

From his remarks General Enriquez seems fully determined to force concessions from foreign companies which he accuses of profiteering in order to divert attention from the weakness of his Government. The British Minister has requested instructions regarding action in behalf of the Anglo-Ecuadoran oil fields from his Government. I will take up the question of the pension decree with the Acting Foreign Minister as soon as possible. Does the Department wish me to make representations regarding this matter at the same time?

According to today's press General Enriquez has asked the Attorney General to take up the question of the revision of the contracts with the All American Cables and the Compania Bananera del Ecuador.

GADE

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<sup>33</sup> Neither printed.

<sup>34</sup> Not printed.

822.6341 South American Development Co./33 : Telegram

*The Secretary of State to the Chargé in Ecuador (Gade)*

WASHINGTON, January 19, 1938—3 p. m.

3. Your telegram no. 5, January 15 [17], 11 a. m. You are requested to call upon the Minister for Foreign Affairs and discuss with him the proposed obligatory modification of the contract of the South American Development Company.

You may inform him that the proposals of the Government appear to the Company to be so drastic and onerous as to require the immediate suspension of development work on the new property as well as the shutting down of the old mine. Such action of course would be unfortunate for all concerned. Therefore, and as the Company believes it has complied faithfully with all contractual obligations, you may express the hope of this Government that the Ecuadoran Government will find it possible to afford the Company ample time and opportunity to consider sympathetically the proposals made.

HULL

822.6341 South American Development Co./60

*The Chargé in Ecuador (Gade) to the Secretary of State*

No. 1033

QUITO, January 27, 1938.

[Received February 5.]

SIR: In recapitulation of my telegram No. 10 of January 27, 11 a. m., 1938,<sup>35</sup> and previous correspondence regarding the proposed obligatory revision of the South American Development Company's contract with the Ecuadorean Government, I have the honor to report that to date I have received no reply to my representations made on January 20, 1938, in conformity with the Department's telegraphic instructions No. 1 of January 8, 3 p. m., 1938, and No. 3 of January 19, 3 p. m., 1938. I do not expect a reply now until the Government has fully determined its course of action.

On January 21st, the date on which an answer was demanded, Mr. Tweedy, the General Manager of the South American Development Company, duly presented his company's reply to the Government.<sup>36</sup> While couched in conciliatory terms, it declined to accept an obligatory revision of the contract. In this connection Mr. Tweedy

<sup>35</sup> Not printed.

<sup>36</sup> The company's reply of January 21, together with the Ecuadoran Government's answer of January 28, were printed by the Government in a pamphlet entitled *Memorandum Sobre los Antecedentes y Efectos del Decreto Dictatorial No. 7 de 18 Febrero de 1938 Que Desconoce Ciertas Estipulaciones del Contrato Vigente Entre el Gobierno del Ecuador y la 'South American Development Company'* (Quito, 1938).

promised to telegraph his New York office to forward a copy thereof to the Department. A translation was also contained in despatch No. 625 of January 24, 1938, from the Consul General at Guayaquil.<sup>88</sup>

According to the Government, the envelope containing the reply was left unopened until General Enríquez' return from a trip to Guayaquil on January 24th. The Company's answer was subsequently turned over to the Attorney General (*Procurador de la Nación*) for an opinion, which is at present awaited.

As reported in my telegram No. 10 of January 27, 11 a. m., 1938, the Government by Decree dated January 26, 1938 (a translation of which is enclosed<sup>89</sup>), imposed a fine of 50,000 sucres, payable within 30 days, on the South American Development Company on the ground that it has circulated bearer bills of exchange, payable at sight, which, it is alleged, are in contravention of Article 7 of Decree No. 118 of December 30, 1937,<sup>90</sup> forbidding the private issue of "money, counters, tokens, or documents of any kind, which might circulate as money" (my despatch No. 1010 of January 10, 1938<sup>88</sup>).

Mr. Tweedy informs me that his company, after receiving the best legal counsel, did give its employees counters for fractional amounts two or three years ago, owing to the impossibility of securing fractional currency. The employees were supposed to present five of these counters, in the sum of one sucre, to the cashier for a five-sucres bill, but doubtless sometimes used them instead of currency. No objection to this practice has been made up to now. Attention is called to the fact that only three days are given for the payment of the fine and that all legal recourse is expressly denied to the Company. It will also be observed that no fines are established by the above-mentioned Decree. Mr. Tweedy states that a Decree especially drafted on January 24th but not yet promulgated and published, establishes a maximum fine of 50,000 sucres and that this irregular Decree is being retroactively invoked.

After delaying some days out of courtesy to the Government, Mr. Tweedy gave the principal newspapers the text of his Company's reply to the Government, which was published in the press on January 27th. In view of the continual newspaper attacks on the Company, it was believed that an explanation to the public, of its attitude was advisable.

Various rumors are in circulation as to what action the Government will take. According to latest reports, troops will be sent to the mines to keep order but not, as originally stated by General Enríquez, to seize the property. It is also said that the Government intends to

<sup>88</sup> Not printed.

<sup>90</sup> Ecuador, *Registro Oficial*, January 4, 1938.



cancel its contract with the Company on the ground that it is not a proper "contract" but a "revocable concession".

The Anglo-Ecuadorian Oilfields, Ltd., which had been given a period of fifteen days to accept a somewhat similar revision of its contract, on January 26th delivered its reply, accepting the Government's proposal to negotiate a new contract to provide for increased taxes, but refusing a proposed large tax payment in advance.

I shall not fail promptly to inform the Department of further developments in the matter.

Respectfully yours,

GERHARD GADE

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822.6341 South American Development Co./48a

*The Department of State to the Ecuadorian Embassy*<sup>40</sup>

#### MEMORANDUM

In view of the long and cordial relationship which has existed between the Government of Ecuador and the Government of the United States, and between their nationals, it has been with genuine regret that this Government has been compelled to take notice of certain recent actions reflecting the attitude and policies of the Government of Ecuador. These actions have given cause for concern to responsible United States companies which have been carrying on their business for many years in Ecuador, many of them on the basis of concessions or contracts entered into with the Ecuadorian Government and approved by the Ecuadorian Congress. The Government of the United States of course is deeply sensitive of the difficult financial situation of the Ecuadorian Government, and understands that many of the policies recently adopted or under consideration have for their purpose the alleviation of that situation. At the same time, the Government of the United States feels constrained to observe that these policies if carried into effect will be extremely burdensome and onerous to certain United States interests. A brief statement of some of these actions may be sufficient by way of illustration.

On December 14 [13], 1937, a Decree was promulgated obliging foreign companies established in Ecuador to pension their employees who have been in their employ for twenty years or more. Apparently, the obligation is made applicable only to foreign enterprises, and the pension prescribed would be in excess of the salary received at any time prior to retirement. An examination of the effects of this measure reveals that it would impose upon the interested American concerns heavy financial obligations not contemplated at the time of the granting of their concessions by the Ecuadorian Government. Moreover,

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<sup>40</sup> Handed to the Ecuadorian Ambassador by Under Secretary of State Sumner Welles on January 28.

the retroactive feature of the measure affords no opportunity to the companies to make provision for the contingency by setting up funds or reserves for pension purposes.

Reports indicate that the Government of Ecuador has canceled the exemption from customs duties granted in accordance with contracts formally concluded pursuant to Ecuadoran law, which exemption was accorded to encourage and facilitate the establishment of industry. This cancellation seems to be in the nature of a unilateral action abrogating contractual rights acquired by virtue of a general law or by way of compensation for special and specific tax commitments.

On January 5, 1938, a memorandum was presented to the South American Development Company setting forth the modifications which the Government wishes to be incorporated in the contract of May 8, 1934, namely, increase of the production tax from 6% to 12%, an advance payment of these taxes in the sum of \$600,000, a new tax of 50 sucres per kilogram of cyanide precipitates exported, and the cancelation of all tax exemptions. The company has estimated that its tax obligations for the year 1937 will amount to about 26% of its net profits. The modifications proposed would bring this percentage up to 50 % of net profits, without taking into account the taxes which would become payable as a result of the cancellation of the free entry privileges enjoyed by mining and other companies, and the pensions prescribed for employees. In making these proposals for the revision of a valid contract duly approved by the Congress of Ecuador, a time period of only ten days was granted the company in which to acquiesce.

The mining industry is one involving considerable risks and uncertainties. Exploration and development work may occupy years during which income is nil and outlays of capital heavy. Therefore, the inherent risks, the years when no profits are made and the eventual exhaustion of the property, necessitate the averaging of profits over a period of years. The proposed modification of the bases on which the company is operating its old mine and developing its new properties is said to be so drastic as to require the suspension of operations.

The Government of the United States does not request or expect special or preferential treatment for United States citizens and their interests in Ecuador. It does, however, have every confidence that the Government of Ecuador in its dealings with them will give full observance to the principles of equity and justice.

It is its earnest hope that an opportunity may be afforded the legitimate interests of the United States to discuss their problems in a friendly manner with representatives of the Ecuadoran Government, and that solutions, based upon equity, may be found which will safeguard the best interests of all concerned.

WASHINGTON, January 28, 1938.

822.6341 South American Development Co./42 : Telegram

*The Chargé in Ecuador (Gade) to the Secretary of State*

QUITO, January 29, 1938—11 a. m.

[Received 2:55 p. m.]

12. My telegram No. 11 [10], January 29 [27], 11 a. m.<sup>41</sup> Tweedy had a long interview with General Enriquez and his Cabinet yesterday. The General flatly refused to consider any modification of the Ecuadorian proposals and gave the South American Development Company 3 days to accept. He also refused to rescind decree imposing the fine. Tweedy declared that he would report by telegraph to the company's directors.

Owing to the anti-foreign feeling stirred up, Tweedy has decided to evacuate by plane American wives and children of employees at Portobello.

GADE

822.6341 South American Development Co./57

*Memorandum of Conversations, by the Chief of the Division of the American Republics (Duggan)*

[WASHINGTON,] January 31, 1938.

I talked with the Ecuadoran Ambassador<sup>42</sup> on the telephone with regard to the South American Development Company. I told the Ambassador that the latest information we had received was to the effect that the company had been given until tomorrow to reply to the demands of the Ecuadoran Government. I stated that the Company maintains that it could not reply to these demands without consultation with the General Manager, Mr. Tweedy. I said that we had been informed that Mr. Tweedy was flying from Guayaquil and would arrive in New York within the next few days. I inquired whether the Ambassador had telegraphed his Government about this general situation following his conversation with Mr. Welles on Friday, January 28.

The Ambassador said that he had not telegraphed his Government and that, unfortunately, he had not sent the text of the memorandum since there had been no air mail, but that he was doing so today.

I then suggested to the Ambassador that in view of the urgency of the situation it would be deeply appreciated if he would send his Government a telegram at once setting forth the desirability of giving the company time to consider the propositions advanced by his Gov-

<sup>41</sup> Not printed.<sup>42</sup> Colón Eloy Alfaro.

ernment in an orderly way. The Ambassador stated that he would send such a message.

February 1, 1938.

I saw the Ambassador today and gave him the further information with regard to Mr. Tweedy's movements contained in Mr. Sparks' memorandum of February 1.<sup>43</sup> I said that an additional forty-eight hours would hardly give the company the time it needed in order to consider the matter properly. At this point the Ambassador showed me the text of a telegram which he had sent yesterday urging his Government to grant to the company a sufficient delay in order to permit Mr. Tweedy to discuss the questions at issue with his principals in New York. Upon the Ambassador advising me that he had not received any reply to this message from his Government, I ventured the suggestion that he might send a further message reiterating his suggestions of yesterday and requesting to be advised of the action taken, in order that he might be in a position to inform the officials of the company. Capt. Alfaro did not indicate whether he would send the further message.

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822.6341 South American Development Co./51a : Telegram

*The Secretary of State to the Chargé in Ecuador (Gade)*

WASHINGTON, February 1, 1938—7 p. m.

7. The additional 2 days granted the South American Development Company expire Wednesday. The Ecuadoran Ambassador telegraphed his Government yesterday urging a further extension. Luke<sup>44</sup> has been requested to reiterate his request for an extension. In the event that it has not been granted, you should call on the Minister for Foreign Affairs and request that favorable consideration be accorded, setting forth that Tweedy has come to the United States for the specific purpose of discussing the matter with his company so that a decision may be taken.

HULL

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822.6341 South American Development Co./52 : Telegram

*The Chargé in Ecuador (Gade) to the Secretary of State*

QUITO, February 2, 1938—noon.

[Received 4:40 p. m.]

14. Department's telegram No. 7, February 1, 7 p. m. Rivas, the South American Development Company's local agent, this morning

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<sup>43</sup> Edward J. Sparks, of the Division of the American Republics; memorandum not printed.

<sup>44</sup> R. P. Luke, Resident Manager of the South American Development Co.

interviewed General Enriquez who declared that he could not grant a formal extension but would give an informal extension until February 5, noon, until which time he promised that no action will be taken by the Government. I am therefore making no representations pending further instructions.

GADE

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822.6341 South American Development Co./58a : Telegram

*The Secretary of State to the Chargé in Ecuador (Gade)*

WASHINGTON, February 4, 1938—7 p. m.

8. The representatives of the South American Development Company discussed with the Department this afternoon the problems confronting them. They indicated a willingness to consider sympathetically the urgent financial needs of the Government and to attempt to work out an arrangement satisfactory to all concerned. However a period of 2 weeks will be required for full consideration by the Board of Directors and for Tweedy's return to Ecuador when he will be prepared to discuss with the Government all aspects of the problem. You are therefore requested to express to the Minister for Foreign Affairs the earnest hope of this Government that the President will find it possible to grant the necessary extension of time.

HULL

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822.6341 South American Development Co./71

*The Ecuadoran Ministry for Foreign Affairs to the American Legation in Ecuador*<sup>44a</sup>

[Translation]

MEMORANDUM

(In re note No. 11 of this date)

First of all it is necessary to inform the Chargé d'Affaires of the United States that Ecuador, following the doctrine generally accepted by all the countries of the world, and especially by those of America, does not recognize resort to diplomatic intervention. This intervention, in the present case, is, moreover, the less acceptable if we take into account the principles which govern the Republic, and the special terms with the South American Development Company.

Nevertheless, as a courtesy to the Chargé d'Affaires of the United States, the Ministry of Foreign Affairs, under instructions from the Supreme Chief, explains the following points:

(1) That the Supreme Chief is conferring with Mr. Tweedy, who is meeting the shareholders in New York.

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<sup>44a</sup> Transmitted to the Department by the Chargé in Ecuador in despatch No. 1040, February 7; received February 15.

(2) That in order to arrive at an equitable and direct understanding with the Company, the Government of Ecuador has granted the Company various extensions which, taken together, have delayed the termination of this affair for more than one month, a period sufficient to have reached a settlement, if there had been good will.

(3) That the Government corrects the reprovable appreciation of the Chargé d'Affaires of the United States to the effect that the dispute with the Companies was induced by the financial necessities of the Government. The demands of the Government from foreign companies are due to just claims under law and the respective rights of the parties.

In conclusion, as the Chargé d'Affaires has been instructed by his Government to express to ours its earnest hope that it might be possible to grant an extension of the necessary time, in order surely to reach an understanding the Government of Ecuador, in view of the never forgotten friendship with the Government of the United States and in order to demonstrate its spirit of equanimity and justice, grants for the last time, a friendly extension of ten days, which will expire at midnight on the fifteenth instant.

QUITO, February 5, 1938.

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822.6341 South American Development Co./111

*Memorandum of Telephone Conversation, by the Chief of the Division of the American Republics (Duggan)*

[WASHINGTON,] February 8, 1938.

I informed Mr. Burden<sup>45</sup> that the Under Secretary had gone over the situation confronting the South American Development Company in Ecuador. The Under Secretary had requested me to inform him that while he deeply appreciated the difficult situation now confronting the Company there appeared to be little more that the Department could do at this stage, particularly in view of the so-called Calvo clause<sup>46</sup> in the Company's contract. I stated that the Department and the Legation at Quito of course would continue to follow the situation closely and at any time would be prepared to reconsider its position in the light of new conditions.

Mr. Burden stated that the Board of Directors was meeting at noon today to consider what further steps the Company should take. He stated that the Company's representative in Ecuador had cabled that the President had declined to agree to the proffered loan of the Anglo-Ecuadoran Oil Company of one million sucres on the ground that it was entirely inadequate. Mr. Burden further stated that in

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<sup>45</sup> William A. M. Burden, of the South American Development Co.

<sup>46</sup> See Hackworth, *Digest of International Law*, vol. v, p. 635.

view of the turn of developments he did not believe that the Board of Directors of the Company would for a moment consider loaning the Government the \$600,000 requested.

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822.6341 South American Development Co./67a

*The Department of State to the Ecuadoran Embassy*<sup>47</sup>

MEMORANDUM

On January 28, 1938, the Department of State presented to the Ecuadoran Ambassador in Washington a memorandum setting forth that certain policies and actions of the Government of Ecuador were causing considerable concern to American interests in Ecuador. The memorandum concluded with an expression of hope that opportunity might be afforded the legitimate interests of the United States "to discuss their problems in a friendly manner with representatives of the Ecuadoran Government, and that solutions, based upon equity, may be found which will safeguard the best interests of all concerned." Subsequently, and with regard to revisions that have been requested in the contract of one American company operating in Ecuador, the Department of State, without in any way endeavoring to pass upon the merits of the position of the Ecuadoran Government or of the company, informally, and in an entirely friendly fashion, made known to the Government its hope that in view of the far-reaching aspects of the requested revisions, a reasonable period of time might be given to the company to consider the matter. In response, the Government of Ecuador, "in view of the never-forgotten friendship for the Government of the United States and in order to demonstrate its spirit of equanimity and justice" granted an extension to the company.

It was, therefore, with surprise and with disappointment that the Department of State has learned that the Government of Ecuador has given a statement to the press indicating its belief that the Department of State has acted "officially" and has intervened in the domestic affairs of Ecuador. This statement has caused surprise because of the well-known and well-established policy of this Administration not to intervene in the internal and external affairs of any nation, a policy embodied in two inter-American treaties,<sup>48</sup> both of which

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<sup>47</sup> Handed to the Ecuadoran Ambassador by Under Secretary of State Sumner Welles on February 9, 1938.

<sup>48</sup> Convention on Rights and Duties of States, December 26, 1933, *Foreign Relations*, 1933, vol. iv, p. 214; Additional Protocol Relative to Non-Intervention, December 23, 1936, *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936* (Washington, Government Printing Office, 1937), Appendix 16, p. 124.

have been ratified by and have the unqualified support of this Government. The statement has caused disappointment because the Department was motivated solely out of long friendship and a desire in an entirely informal way to inform the Government of Ecuador of the current views of American interests in Ecuador with regard to certain pending policies.

The Department's informal and friendly actions have been in complete harmony and conformity with the good neighbor policy that seeks, through exchanges of views undertaken in a spirit of understanding and mutual confidence, to prevent the development of situations that might adversely affect the cordial relations among the American Republics.

WASHINGTON, February 9, 1938.

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822.6341 South American Development Co./69½

*Memorandum by the Under Secretary of State (Welles) to the Secretary of State*

[WASHINGTON,] February 11, 1938.

MR. SECRETARY: The Ambassador of Ecuador left at my office today a copy of a cable he had just received from his Government, which reads in translation as follows:

"Please say to the Department of State that the Government of Ecuador has always appreciated duly the consistent just procedure of the American Government which has invariably been inspired in the ample and American policy of the good neighbor. The Government of Ecuador believes that the mistaken understanding of the measures which it had taken in the matter of contracts with foreign companies to the effect that the Government had undertaken these measures for the purpose of improving financial difficulties is probably due to malicious information given to it by the interested companies. Please confirm the declaration that the Government of Ecuador is proceeding through conciliating its policy under the law with the safeguarding of national interests which have been prejudiced and please assure once more the Government of the United States of the high esteem and fraternal sentiments of the Government of Ecuador."

I will send for the Ambassador within a day or so and tell him that while we appreciate this message, it would not seem to remove the grounds for our disappointment that the Government of Ecuador had so misinterpreted our earlier communication.

S[UMNER] W[ELLES]



822.6341 South American Development Co./108

*The Chargé in Ecuador (Gade) to the Secretary of State*

No. 1051

QUITO, February 21, 1938.

[Received March 1.]

SIR: With reference to my despatch No. 1049 of February 17, 1938,<sup>49</sup> regarding the obligatory revision of the South American Development Company's contract with the Ecuadorean Government, I have the honor to report that by a Decree issued on February 18th the Government raised the Company's gross production tax from 6% to 12% and declared that the other terms of the Company's "concession" would remain unchanged. A translation of the text of this decree as published in the press on February 19th is transmitted herewith.<sup>49</sup>

The press on February 19th also published an "official explanation" of the foregoing decree, signed by Señor José De La Cuadra, the Supreme Chief's Secretary, a translation of which is likewise enclosed.<sup>49</sup>

Señor Rivas, the Company's local representative, informs me that he is hopeful that the Decree will be further modified. While the Company could pay the increased production tax under normal circumstances, it might find it too onerous if the mineral earth mined turned out to be poor for some time.

During the last few days the press has given the impression that the Government has won a great victory over the South American Development Company. Various labor organizations have held demonstrations to congratulate General Enríquez.

The Company's shipment of cyanide precipitate, which was seized by the Ecuadorean authorities on February 15th (my despatch No. 1049 of February 17, 1938) was released and exported to the United States in the S. S. *Santa Maria* on February 18th.

Respectfully yours,

GERHARD GADE

822.6341 South American Development Co./124

*Memorandum of Conversation, by Mr. Edward J. Sparks of the  
Division of the American Republics*

[WASHINGTON,] March 3, 1938.

Participants: Messrs. Tweedy, Burden, and Luke, of the South American Development Company

Mr. Duggan

Mr. Sparks

Messrs. Tweedy, Burden and Luke called at the Department this afternoon to explain recent developments in the difficulties which have

<sup>49</sup> Not printed.

arisen between the South American Development Company and the Ecuadoran Government.

Mr. Luke, resident manager in Guayaquil, and who has just arrived by plane from there, reviewed his negotiations with the Ecuadoran Government seeking a solution of the demands of Ecuador for increased taxes. He stated that Mr. Rivas, the Quito representative of the company, had learned that the Government might entertain a proposal by the company agreeing to pay 35% of its net profits and an offer along those lines was immediately submitted. It appears that the Government upon rechecking its calculations decided that the tax should not be less than 40%. Mr. Luke discussed this percentage with General Enriquez who expressed his agreement. However, the Attorney General subsequently convinced the General that for political and other reasons he could not agree to substitute the 12% production tax and that he should insist thereon. Mr. Luke tried to return to Quito on February 18 in order to discuss the matter further with the General but the plane was unable to get through until the following day. Upon his arrival he found that a Decree had been issued on the previous day, requiring the company to pay a production tax of 12% instead of the former rate of 6%, and to pay customs duties on imports. In discussing this new situation with the President the latter indicated that the company must accept the situation and that if it found after a reasonable operation of the new law that the taxes exceeded 40% he would give favorable consideration to a modification of the Decree.

The company is convinced that no further action can be taken at this time to obtain any modification of the terms imposed on it. Accordingly the company will comply with the law, which compliance he does not wish to be interpreted as acceptance. Mr. Tweedy indicated that it was not considered desirable or feasible to make any protest and that when the next payments are made to the Government the question will then be taken up with the President in the event that the rate of taxation is greater than 40%.

Reference was then made to the Cotopaxi Exploration Company which is a new gold mining property which the company is developing. Mr. Luke stated that he had received written assurances from the secretary of the President that the Ecuadoran Government would cooperate in every way to permit the development of this company. As concerns free entry for machinery and supplies the Government is now preparing a revision of customs tariff so as to reduce, where necessary, the duties on essential mining supplies and equipment. Mr. Burden remarked that the assurances given would seem to provide for the development of the mine, in which \$400,000 has already been invested. However, the question that bothered the company is what reliance can be placed on these assurances and whether or not a future government will respect them. It was indicated to Mr. Burden that

this would appear to be a matter of business judgment and that there should be taken into consideration the recent actions of the Ecuadoran Government. It was further remarked that from the information available the measures in question seem to be aimed at unusually large profits and not to cripple or retard the development of the new industry.

Mr. Tweedy then stated that while it was thought that no effective action could be taken with the Ecuadoran Government at this time with respect to the tax modifications imposed upon the company in violation of its contractual rights, he did feel that the Department might be able to take some action with regard to the Pension Law. Mr. Duggan recalled that the Legation in Quito, upon the promulgation of the law, had made informal representations to the Ecuadoran Foreign Office which had stated that the Government was contemplating its modification. He added that the Department would review the situation and determine whether further action might be taken.

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822.6341 South American Development Co./121

*The Consul General at Guayaquil (McDonough) to the Secretary of State*

No. 661

GUAYAQUIL, March 4, 1938.

[Received March 9.]

SIR: I have the honor to refer further to the Department's instruction of February 12, 1938 (file No. 822.6341 South American Development Co./68a),<sup>51</sup> concerning the differences which have arisen between the Ecuadoran Government and foreign companies operating in Ecuador, and to report that it is believed that an agreement will be reached between that government and the South American Development on terms which will not include the advance payment of large amounts of taxes. Mr. R. P. Luke, resident manager of the Company, went to the United States by plane on February 26, 1938. The outlook for operations by the Company is now considered as perhaps fairly satisfactory. The troops have been removed from the vicinity and district of the mine. The American and other foreign women and children have returned to the mining camp.

The Anglo-Ecuadorian Oilfields Ltd., a British petroleum producer, which received demands similar to those of the South American Development Company, will probably reach an agreement similar to

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<sup>51</sup> This instruction was a circular to American diplomatic officers in the American Republics recapitulating the circumstances regarding the difficulties between the Ecuadoran Government and the South American Development Co. and the action relating thereto taken by the Department of State, and directing the presentation of the pertinent facts to the Ministers for Foreign Affairs, should the Ecuadoran representatives present the attitude of their Government.

that of the American company but nothing definite is known on the point. The British Consul at Guayaquil has no information about the intentions of the oil company.

The Supreme Court of Ecuador, according to a press report, has decided in favor of Sr. Cajiao, an employee of the All America Cables, who sued for the pension that he claimed under the decree of December 14 [13], 1937, which is mentioned in the Department's memorandum of January 28, 1938, a copy of which is enclosed with the instruction under reference. Sr. Cajiao will receive a pension of about 2675.66 sucres monthly although his pay while on active duty was only about 1,410. sucres monthly. He has left work on the strength of the press report or of private information. The Guayaquil office of the Cable Company has received no official notice of the reported finding of the Supreme Court.

The companies, such as the Empresa Electrica del Ecuador, Inc., an American corporation, which had contracts for free entry of certain necessary supplies and equipment, are paying import duties under protest.

The press from time to time announces that the contracts with the All America Cables and the Compania Bananera del Ecuador, an American concern affiliated with the United Fruit Company, will be modified but the companies have had no official or unofficial intimation to that effect. The press reports recently have been less insistent that the contracts would be modified. In spite of much propaganda to the effect that these two companies have much too liberal contracts, they do not appear to have been granted any concessions of much actual financial value.

For the present, the agitation in Ecuador against foreign capital has quieted down considerably.

Respectfully yours,

DAYLE C. McDONOUGH

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PROTECTION OF INTERESTS OF THE ALL AMERICA CABLES, INC.

822.72 AL 5/39 : Telegram

*The Chargé in Ecuador (Gade) to the Secretary of State*

QUITO, April 26, 1938—noon.

[Received 4:59 p. m.]

38. General Enriquez<sup>52</sup> last night gave All America Cables an ultimatum requiring payment of \$354,000 as settlement of alleged back taxes. If ultimatum which expires on Thursday is not accepted he

<sup>52</sup> Provisional President of Ecuador.

threatens to seize the Company's properties. Roosevelt,<sup>53</sup> the Vice President of the company, has requested no action from the Legation but merely wishes to keep it informed.

GADE

822.72 AL 5/42½

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*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] April 27, 1938.

I asked the Ambassador of Ecuador<sup>54</sup> to call to see me this morning and told him of my very deep concern at learning of the action taken by the Government of Ecuador in regard to the All America Cable Company, namely, that unless the company paid within a period of forty-eight hours \$350,000 of alleged back taxes, which the company states it is under no obligation to pay either under the law or under principles of equity, the Government of Ecuador would sever communications south of Ecuador.

I reminded the Ambassador that the All America Cable Company was a company which had done a vast amount of service to all of the American republics in perfecting and maintaining adequate cable communications between them, and that he himself knew the officials of the company and the fair and friendly spirit in which they dealt when problems arose between the company and the governments of the American countries which they served. I said to the Ambassador that if the action threatened was taken by the Government of Ecuador, we could of course immediately anticipate a very vocal and violent protest on the part of the Governments of Brazil, Uruguay, Argentina, Chile and Peru, who would thus be severed from all communication with the United States and with the northern countries of the hemisphere. Furthermore, I said, this type of action which had been undertaken by the present Government of Ecuador was surely not one that could be classified as coming within that practical carrying out of the Good Neighbor policy for which all of the American republics stood and to which I was sure the people of Ecuador were sympathetic. I said it seemed to me that the equitable, reasonable and friendly thing for the Government of Ecuador to do would be to advise the company that this period of forty-eight hours laid down in the ultimatum would be extended to at least a period of two weeks in the belief that a fair and satisfactory solution of the difficulties which had arisen could be found within that period. I told the Ambassador that that was the only official representation which I had to make to him on the subject this morning.

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<sup>53</sup> John K. Roosevelt.

<sup>54</sup> Colón Eloy Alfaro.

Off the record and speaking, I told the Ambassador, solely as a personal friend and as an individual citizen of this country, I felt that if the officials of the company decided, should the Government of Ecuador sever the cables of the company, to move their cables outside of Ecuador's territorial waters, such action would be applauded by every republic of this continent. I said that unfair and high-handed dealings in matters of this kind on the part of the Government would not serve the interests of the continent nor the interests of Ecuador herself. The company was in a position where it could isolate Ecuador from communications with the rest of the continent and, I said, I was by no means certain that the company would not be driven to take such action.

The Ambassador told me that on frequent occasions in the past he had intervened to prevent the company from being "mulcted" and that he would do everything in his power to help in the present instance. He said the fact was there were very few foreign companies doing business in Ecuador and the situation of Colonel Enriquez, the Provisional President of Ecuador,<sup>55</sup> in the financial sense was so straitened that he was probably trying to get money in any way he possibly could. The Ambassador said he regretted the incident deeply and that he would do everything within his power to persuade his Government to take the action I had suggested.

S[UMNER] W[ELLES]

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822.72 AL 5/39 : Telegram

*The Acting Secretary of State to the Chargé in Ecuador (Gade)*

WASHINGTON, April 27, 1938—5 p. m.

21. Your telegram no. 38, April 26, noon. The Department has been informed of the present status of the negotiations of the All America Cables seeking a settlement of the claims of the Ecuadorean Government for alleged back taxes. It is understood that these claims were settled May 17, 1935,<sup>56</sup> and duly ratified December 5 of the same year. However, the Government now declares that the settlement was inadequate; that a new agreement must be made providing for a larger payment and that the Company is granted 48 hours in which to accept the Government's proposal failing which its properties will be seized.

The Department has not had sufficient opportunity to examine into all details of the case but on the basis of the information available it appears that the Company has exhibited a sincere desire and is mak-

<sup>55</sup> See *Foreign Relations*, 1937, vol. v, pp. 468 ff.

<sup>56</sup> Contract of May 17, 1935, ratified December 5, 1935; published in Ecuador, *Registro Oficial*, January 13, 1936.

ing every effort to meet the views of the Government of Ecuador. However, it would appear that the demands being made are excessive and burdensome to a point where the Company may be forced to give serious consideration to removing its present installations from Ecuador. The Department naturally would view with serious concern the necessity for such drastic action and is hopeful that the course of the negotiations may definitely remove this possibility.

As concerns the alleged threat to seize the properties the Department anticipates that such action, without considering the rights involved, would involve an immediate and serious interruption of international communications of this and the other governments of the Americas.

You are requested to seek an interview immediately with the Minister for Foreign Affairs and discuss the question on the basis of the foregoing and to express orally the hope of this Government that it will be possible to accord an extension of 2 weeks' time to afford the Company sufficient opportunity to consider the matter.

WELLES

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822.72 AL 5/40 : Telegram

*The Chargé in Ecuador (Gade) to the Secretary of State*

QUITTO, April 28, 1938—7 p. m.

[Received April 29—12:15 a. m.]

42. Department's telegram No. 21, April 27, 5 p. m. In reply to my oral request this morning for an extension of 2 weeks, the Minister of Foreign Affairs has just informed me that, in spite of his best efforts, General Enriquez refuses to grant the cable company a greater extension than until Monday, May 2, 5:00 p. m.

Minister Long is presenting his credentials tomorrow morning.

GADE

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822.72 AL 5/40 : Telegram

*The Acting Secretary of State to the Minister in Ecuador (Long)*

WASHINGTON, April 29, 1938—8 p. m.

22. Your telegram 42, April 28, 7 p. m. You will please seek immediately an audience with the President of Ecuador for the specific purpose of discussing orally with him before May 2 the difficulties being experienced by All America Cables.<sup>57</sup>

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<sup>57</sup> In telegram No. 44, April 30, 5 p. m., the Minister in Ecuador reported representations made pursuant to this instruction. Further discussions for a settlement were conducted by Mr. John K. Roosevelt on behalf of All America Cables. (822.72 AL5/42)

You should say that this Government is deeply concerned over the apparent unwillingness of the Government of Ecuador to grant an adequate extension of time which would make possible a calm and careful consideration of the implications of its proposed action. However, before considering this aspect of the matter this Government desires to be assured that the President is informed of the facts of the case as well as of certain of the conclusions which the Department has reached on the basis of a preliminary examination into the situation. You may point out that in the opinion of this Government the company has rendered an important service to all of the American Republics in maintaining and perfecting adequate cable communications between them, and that the officials of the company, when problems have arisen, appear to have approached them in a fair and friendly spirit.

With respect to its Ecuadoran business, the company appears to have considered the various requests of the Ecuadoran Government from a particularly sympathetic and comprehending point of view. As the President is doubtless aware, it was previously operating under a contractual arrangement providing exemption "from all kinds of national taxes and contributions", notwithstanding which the company in 1935 relinquished this exemption and concluded a new arrangement settling all past claims and providing for the payment of taxes in the future. This supposedly definitive settlement was ratified by the succeeding government of Ecuador, and hence this Government finds it somewhat difficult to understand on what basis the Ecuadoran Government is now endeavoring to reopen the whole question.

The present case is of especial concern since it has to do with communications affecting not only Ecuador and the United States, but also the other American Republics served by All America Cables. Moreover, this Government, acting in the most friendly spirit, is impelled to observe that unilateral action of the type apparently contemplated by the Government of Ecuador does not appear to be one that could be identified with the practical application of the policy of mutual cooperation and reciprocal respect for each other's interests to which all the American Republics stand pledged and to which it is believed the people of Ecuador are genuinely sympathetic. This Government accordingly earnestly hopes that the Government of Ecuador, motivated by the same friendly spirit, will grant to the company an extension for a minimum period of 2 weeks in order that the whole question can be reexamined with a view to reaching an equitable and feasible solution.

The Government of Ecuador will doubtless not be unaware of the keen competition which confronts cable companies as a result of existing air mail, radio telegraph and radio telephone services. It



is understood that All America Cables, in the event of the imposition by Ecuador of charges which would effectively destroy its competitive position with respect to such services or to other cable services, might conclude that it had no choice other than to remove its installations from Ecuador and run its cables outside Ecuadoran territorial waters.

The Government of the United States believes it likewise necessary to remind the Government of Ecuador of the official position assumed by this Government with which the Government of Ecuador is doubtless familiar, namely, that while the Government of the United States recognizes the sovereign right of other governments to expropriate the properties of citizens of the United States located within their jurisdiction, it nevertheless maintains that such expropriation should only be undertaken upon the payment by such governments of immediate, adequate, and effective compensation to the owners of such properties.

WELLES

822.72 AL 5/59

*The Minister in Ecuador (Long) to the Secretary of State*

No. 27

QUITO, May 19, 1938.

[Received May 25.]

SIR: In continuation of despatch No. 19 of May 16th,<sup>58</sup> I have the honor to report that Mr. John K. Roosevelt informed the Legation yesterday morning that, on Tuesday the 17th inst., practical agreement was reached on all points, recently under discussion, looking to the conclusion of an agreement for continuing the contract of the Cable Company for approximately eighteen years; that is, the period remaining of the fifty years granted under the Alfaro concession long ago.

The Supreme Chief thereupon approved the issuance of a decree authorizing the Minister of Public Works and Communications to incorporate the terms of the agreement in a public document which when signed by the representatives of the Company and Government will be completely legal without ratification by a subsequent congress. That is his opinion and the Company accepts it—at least for the time being.

This document was signed today. A copy with translation will be forwarded immediately when the official publication has become available.<sup>59</sup>

Meanwhile, as we understand it the outstanding points of the new arrangement are: cancellation of free entry privileges, payment by

<sup>58</sup> Not printed.

<sup>59</sup> For text, see Ecuador, *Registro Oficial*, June 30, 1938; typescript translation in Department files under 822.72 AL5/63.

the Company of a sales tax, of an income tax, also \$20,000 annually as a tax on international traffic, and a tax of .10¢ per word on incoming messages not counting Ecuadorean Government, consular and press messages.

The Company will return title to the Government of Ecuador on the lands it formerly held near Salinas so they may be allocated to the Municipality of the same name: in addition the Company will open an office at Quito, and within three years will establish another office at Manta. A cash payment is also to be made.

While the above synopsis may not be all inclusive it is thought to embody the principal changes which have been arranged. It is thought that the Ecuadorean Government is content.

. . . . .  
Respectfully yours,

. . . . .  
BOAZ LONG

## EL SALVADOR

### INFORMAL ASSISTANCE BY THE DEPARTMENT OF STATE TO REPRESENTATIVES OF THE HOLDERS OF THE SALVADORAN BONDS UNDER THE LOAN CONTRACT OF JUNE 24, 1922<sup>1</sup>

816.51C39/538a

*The Secretary of State to the Minister in El Salvador (Frazer)*

No. 47

WASHINGTON, May 27, 1938.

SIR: The Department has recently received a visit from Mr. Frederick E. Lober, Vice President of the Manufacturers Trust Company, 55 Broad Street, New York, New York, in connection with the failure of the Government of El Salvador to comply with the terms of the Readjustment Agreement of April 27, 1936,<sup>2</sup> and its default under the Loan Contract of June 24, 1923.<sup>3</sup>

Mr. Lober informed the Department that since the recent announcement of suspension of payment on its foreign bonds by the Government of El Salvador, the receipts of that Government have continued at an unusually high level. He also stated that the Government of El Salvador has continued to set aside sums required for the service of the 1922 loan under the Readjustment Agreement and he has requested the assistance of this Department in prevailing upon the Government to utilize these funds for the purpose of resuming the service of the loan.

Before reaching a decision with regard to the desirability of discussing this matter with the Government of El Salvador, it is desired to have full information on the present financial situation of the Government.

You are therefore requested to submit a prompt report by air mail which should include in particular information on the following points:

(1) A comparison of the customs and other revenues since January 1, 1938, with a similar period for several previous years.

<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1936, vol. v, pp. 572 ff.

<sup>2</sup> El Salvador, *Readjustment Agreement between Republic of El Salvador and Bondholders' Protective Committee for the Bonds of the Republic of El Salvador and Council of Foreign Bondholders of London, Regarding the Loan Contract of 1922 as Amended by Agreements dated January 5 and September 28, 1923, April 27, 1936* (n. p., n. d.); also printed in Foreign Bondholders Protective Council, Inc., *Annual Report, 1936* (New York, 1937), pp. 373-382.

<sup>3</sup> El Salvador, *Loan Contract between the Republic of El Salvador and Minor C. Keith, June 24, 1922* (n. p., n. d.).

(2) The disposition made of that portion of the export tax on coffee which is normally devoted to the service of the loan and any information which may be available with respect to the present intention of the Government of El Salvador to remit it to coffee exporters.

(3) Any other information which in your opinion would be of assistance to the Department in reaching a decision with regard to requesting the Government of El Salvador to resume service of its loan.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

816.51C39/539

*The Minister in El Salvador (Frazer) to the Secretary of State*

No. 190

SAN SALVADOR, June 8, 1938.

[Received June 14.]

SIR: I have the honor to acknowledge receipt of the Department's instruction No. 47, of May 27, 1938 (RA:GAD:GRS:5/23/38), requesting information on the financial situation of the Government of El Salvador, and its strictly confidential instruction No. 48, also of May 27, 1938<sup>4</sup> (without file number), transmitting copies of correspondence relating to the default of the Salvadoran Government under the terms of the Loan Contract of June 24, 1922.

There is enclosed a memorandum, with eight annexes,<sup>4</sup> kindly prepared for this Legation by Mr. W. W. Renwick, the representative in El Salvador of the Fiscal Agent of the foreign loan. Mr. Renwick was formerly with the National City Bank of New York but has been in El Salvador in his present capacity for the past sixteen years. He is an American citizen of the highest integrity and of the best type.

The following conclusions may be drawn from the schedules annexed to the enclosed memorandum:

*Import Revenues.*

Revenue from import duties for the first quarter of 1938 amounted to  $\text{Q}2,997,394$ , which is the largest collected from this source during any corresponding quarter since 1929. The greatest amount collected in import duties during any corresponding quarter in the past 14 years was in 1929, when these amounted only to  $\text{Q}466,439$  more than in the first quarter of the current year. Collections of import duties declined in April and May, 1938, to  $\text{Q}708,513$  and  $\text{Q}740,846$ , respectively. This decline was, in part, seasonal, but it was not so great, and will not be so great in June, in the opinion of the customs authorities, as to prevent total collections of import duties for the first semester of 1938 being at least normal, or somewhat above normal.

<sup>4</sup> Not printed.

*Export Duties.*

Export duties of course declined in the first quarter of 1938, as compared to the corresponding quarter of most previous years, as shown below :

	1935	1936	1937	1938
January.....	Q349, 269	112, 438	411, 698	385, 159
February.....	571, 754	180, 851	671, 020	423, 738
March.....	641, 611	230, 277	744, 583	336, 380
Totals.....	1, 562, 634	523, 566	1, 827, 301	1, 145, 277

On November 2, 1937, the export duty on coffee (practically the only article on which export duty is assessed) was reduced by two thirds, or from U. S. \$2.57 to 85.67 cents per 100 kilos (220 pounds) gross, and this more than accounts for the decrease below average of the export collections in the first quarter of the current year. The preceding bumper crop was the largest in the country's history, which accounts for the very large import duties collected in the first quarter of 1937. Export duties collected in April and May, 1938, were Q143,159 and Q149,173, respectively.

*Central Reserve Bank.*

The financial position of the Central Reserve Bank (which may be taken as the financial position of the Government itself) is shown in annexed schedule "H", by months from September 30, 1934, to April 30, 1938, as well as on May 15, 1938, the latest date for which the information is available.

The last named figures show that the bank's gold reserve amounted to Q13,172,000 against a note circulation of Q14,246,000, and that the Government's sight deposits (i. e., its general deposit plus the deposits of Official Institutions) totalled Q5,548,000. The latter sum exceeds twenty five percent of the country's total annual budget; which means that these deposits could enable the Government to function, if necessary, without collecting another penny of revenue for over three months.

*Government Income.*

The principal sources of Government income, and the amounts received from each during the past two calendar years and for the first quarter of 1938, are shown below (in thousands of Colones) :

	Customs	Liquors	Consular Fees	Communi-cations	Miscellaneous	Total
1936.....	8, 665	1, 685	1, 214	874	4, 753	17, 191
1937.....	13, 021	1, 836	1, 011	1, 007	4, 325	21, 210

The Government's total income during the two preceding years, 1934 and 1935, was Q19,573,124 and Q20,211,738, respectively.

That the Government is living well within its means is shown by the fact that its surplus of receipts over expenditures was  $\text{Q}550,975$  at the end of the last fiscal year (June 30, 1937). There was a small budget deficit on operations in fiscal 1936, but this was far more than met from the large balance on hand of  $\text{Q}3,326,527$  at the end of fiscal 1935.

#### *Foreign Debt.*

Both the Minister of Finance of this Government (Doctor Samayoa) and the Auditor General of the Republic (Mr. Augustin Alfaro Moran) have stated within the past few days that no payment on the foreign debt will be made on June 30, next, and Mr. Alfaro expressed the private opinion that the prospects of making any payment even at the end of 1938 are not at present favorable.

Experience has unfortunately shown, according to some old residents here, that when any payment in a series is defaulted in a Latin American country it is most unlikely that it will be made up later.

Last week the Government directed that the special reserve fund set aside to meet payments of the foreign debt be transferred to the Government's general fund at the Central Reserve Bank. This special reserve fund amounted, when transferred to the general fund, to approximately  $\text{Q}1,180,000$ .

#### *Other Government Debts.*

Mr. Alfaro and other well informed sources believe that, unless world coffee prices considerably improve, the reduced coffee export tax now in effect (of about 85 cents U. S. currency per 100 kilos instead of \$2.57) will be continued next year. This will mean a reduction of some  $\text{Q}2,000,000$  in the Government's revenue from this source, as compared to what it would receive were the rate of \$2.57 still in effect. (It may here be noted that interest and sinking fund charges on the foreign debt practically equal the above figure, being  $\text{Q}2,125,000$  per annum).

The internal public debt of El Salvador has been reduced to the nominal sum of approximately  $\text{Q}2,000$  (\$800), while the only internal account of substantial importance now (May 31, 1938) owed by the Government is the sum of United States currency \$256,666 due the Bank of London & South America. Payments on the latter are being made regularly.

#### *Political Rumors.*

It is strongly rumored, and the rumor believed by many well informed persons, that General Martínez has now practically made up his mind to succeed himself in office as President for another term of four years beginning March 1, 1939. It was understood a month

ago, as reported in my No. 146, of May 6,<sup>s</sup> that there was a strong probability that General Martínez would decide to relinquish his office at the end of his term, and that General A. I. Menéndez, the present Minister of War, would succeed to the Presidency. It is said that this change might well have eventuated but for the fact that General Menéndez positively declines to accept the office; but perhaps the last statement should not be accepted without reservation.

A possible connection between the presidential succession and the foreign debt is that if General Martínez were leaving office he would probably be careful to keep payments up to date, but that as he is now counting on a further four years, he wants all the money possible to carry forward the program of road building and social betterment in which it is believed that he is unquestionably most sincerely and genuinely interested. No doubt, also, he desires a financial reserve to draw upon, in the event of emergencies arising from his determination to succeed himself.

Be that as it may, the undersigned does not feel that either the future prospects or the actual financial position of the country justifies its defaulting in its foreign obligations at the moment, and is disappointed that the President has taken the stand in regard to it that he evidently has taken. Last November, when coffee, the sole important product and mainstay of this country, declined some \$3 per 100 pounds in a few weeks, pessimistic forebodings for the future seemed both natural and justified, and it was not felt at that time that the Government could be very severely criticized for temporarily suspending service on its foreign debt. However, as things turned out, general business conditions were affected far less than was apprehended and the financial position of the Government remained exceedingly strong (of course a little stronger than it would have been had it not defaulted on its debt payments). No reason, therefore, is seen now to justify the continued suspension of these payments. After all, the interest and sinking fund payments due for the first half of this calendar year are only \$467,500, or  $\text{Q}1,168,750$ , a sum which the Government could certainly very well meet if it strongly desired to do so; for in a number of past years it has met larger debt payments than this at times when its financial position was much less strong than it is today.

#### *Representations to Government.*

In view particularly of the third paragraph of the Department's instructions No. 47, it was felt of course that no representations whatever could be made by me to the Government in regard to its present default. It did seem, however, that something might be said by in-

<sup>s</sup> Not printed.

direction, and opportunity was taken at a luncheon given by the President a few days ago to remark to him, while we were talking alone, that I had observed with much interest the exceptionally strong financial position of his Government, and that I intended to report fully upon it to Washington, knowing how gratified our Government would be to know the actual situation. I further pointed that it must be very gratifying to him to be able to spend approximately a million dollars on an aerial map of El Salvador (for which bids are already in) as well as other large sums for public purposes. The President agreed but, beyond looking rather thoughtful for a time, made no definite rejoinder.

*Appointment of a Collector General.*

It is noted that in its letter of May 17, 1938<sup>7</sup> to the Secretary of State, the Manufacturers Trust Company, as Fiscal Agent, invokes Article XVI of the Loan Contract of June 24, 1922, in applying for the creation of the Customs Administration and the appointment of a Collector General. In this connection, Mr. W. W. Renwick, the local representative of the Fiscal Agent, points out that the Salvadoran Government could, if it were disposed—and it might well be disposed—upset such an arrangement in the same manner in which it closed his office last November and appointed instead a Special Delegate of the Salvadoran Treasury to collect customs revenue for application to the foreign debt.

Any further information desired by the Department in regard to the subject of this report will gladly be supplied with the greatest possible despatch.

Respectfully yours,

ROBERT FRAZER

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816.51C39/543

*The Acting Chairman of the Bondholders Protective Committee for Republic of El Salvador (Hebard) to the Under Secretary of State (Welles)*

NEW YORK, June 10, 1938.

[Received June 20.]

DEAR MR. WELLES: I regret the necessity of addressing you on the matter of the Committee's present fear that the Government of El Salvador will default on the July 1st service requirements of its external debt as provided for in the Readjustment Agreement of 1936. There are enclosed herewith copies of the Committee's letter of May 27th and its cable of June 10th<sup>8</sup> addressed to Dr. Samayoa, Minister of

<sup>7</sup> Not printed.

<sup>8</sup> Neither printed.



Hacienda, which will be found informative regarding the Committee's recent activities in relation to this matter.

The holders of Salvador bonds made very substantial sacrifices in their acceptance of the Readjustment Agreement of 1936 by the terms of which the service requirements of the debt were reduced from \$1,736,941 to \$850,000 per annum. The fairness and equity of the Agreement was recognized by the Government of Salvador.

Both the Committee and the Council of the Corporation of Foreign Bondholders in London, have closely followed developments in the Salvador financial and economic situation since November 1937, at which time the Government of Salvador announced temporary suspension of debt service to follow January 1, 1938 payments.

For the first five months of 1938 customs receipts by which these loans are guaranteed were approximately \$460,000 in excess of those collected for the same period in 1936. This is important when it is recalled that it was during the spring of 1936 that the Readjustment Agreement was formulated, and undoubtedly customs receipts as then collected were considered by Government as adequate to cover loan service, and in fact no difficulty whatsoever was experienced by Government at that time in remitting not only the service of the loan for first six months of 1936 but also additional sums for past due coupons, amounting in all to \$1,300,000.

We are reliably informed that on May 31st the Government had to its credit in the Central Reserve Bank 3,574,000 colones or the equivalent of \$1,429,600; manifestly an exceptionally strong position. Debt service requirements due and payable on July 1st amount to only \$467,500. The Government, therefore, is in most favorable position to cover July 1st requirements of the external debt without impairing its cash position.

The Committee and the Council of the Corporation of Foreign Bondholders, therefore, feel very strongly that there is no justification whatever for the Government of El Salvador failing to meet July 1st requirements and that its capacity to pay the amount in question cannot be honestly or fairly denied.

The Committee has enjoyed pleasant and satisfactory relations with the Government of Salvador but the scope of its activities and efforts in advancing the interests of the bondholders in the present situation are necessarily limited. The Department of State has on previous occasions rendered substantial service to the bondholders in the long and arduous negotiations between the Committee and the Government which were brought to a successful conclusion by the signing of the Readjustment Agreement.

In response to our protests against suspension of loan service in November last, we received an official letter from the Minister of Finance

dated December 7th, containing the assurance that any suspension of remittances would be only temporary, and that remittances would be resumed as soon as circumstances might permit.

As we understand the present situation, the Government has not yet reached a final decision as to whether or not remittance should be made in time to meet the service due on July 1st next but is inclining toward taking a decision unfavorable to the bondholders.

The Committee is further informed from reliable sources that the Government is giving serious consideration to the expenditure of large sums on munitions of Italian manufacture; this, notwithstanding the fact that no enemy is threatening Salvador, or is likely to endanger its present secure position.

In this situation and at this time it is the carefully considered judgment of the Committee that the Department of State could render a most important service to the 4000 bondholders whom it represents in urging the Government of El Salvador to remit funds covering the July 1st requirements and thus avoiding a default which is unnecessary and unwarranted.

The Committee, therefore, earnestly and respectfully requests that the Department give favorable consideration to taking appropriate action on this matter in the interests of the holders of these bonds, and the continuance of the friendly relations heretofore existing between the parties concerned.

The Committee will welcome the opportunity to furnish you with any further information on any phase of the matter at issue.

With tokens [etc.]

For the Committee:  
R. W. HEBARD

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816.51C39/539: Telegram

*The Secretary of State to the Minister in El Salvador (Frazer)*

WASHINGTON, June 17, 1938—6 p. m.

17. Reference your despatch 190, June 8, 1938. Please seek an audience with President Martinez and convey to him the earnest hope of this Government that the Government of El Salvador will find it possible to make the payment on its bonds due on July 1, in accordance with the provisions of the Readjustment Agreement of April 27, 1936, between that government and the Bondholders Protective Committee for El Salvador. You may tell President Martinez that this Government has observed with sympathetic interest the very able management of the financial affairs of El Salvador during his administration and it has been gratified with the reports which have been received from various sources indicating that the

present financial situation of El Salvador is better than it has been for several years. You should remind the President that while this Government did not actively participate in the negotiations leading up to the Readjustment Agreement, it followed those steps with the greatest of interest and the successful termination of the negotiations was a source of sincere satisfaction both to this Government and to the private interests concerned.

When in November of last year the Salvadoran Government announced the suspension of payments on its debt, it spontaneously gave assurances that it was its firm intention to resume these payments as soon as improved conditions made this possible. In view of these assurances this Government now believes that the very satisfactory financial condition of El Salvador justifies it at this time in expressing the hope that the approaching payment will be promptly made.

You should report the results of your interview by telegraph.

HULL

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816.51C39/546 : Telegram

*The Minister in El Salvador (Frazer) to the Secretary of State*

SAN SALVADOR, June 21, 1938—6 p. m.

[Received 9:25 p. m.]

19. Department's telegram No. 17, June 17, 6 p. m. In interview with President Martinez this morning he stated that El Salvador's budget of expenditures for fiscal year beginning June 1 will be for 17 million colones or 3 million less than expenditures for the past several years. This was the only definite statement that could be extracted from him in support of his repeated asseverations that the country's financial situation is so bad that it will be impossible for it to meet the debt charges due at the end this month.

Two millions of the budget decrease equal the amount of the loan service for 1 year and the remaining million is more than compensated for by new taxes and more efficient collection of old ones. The President asserted that such taxes are earmarked for specific purposes and are not available for the service of the debt.

The President agreed to direct the Minister of Finance to supply me with a written exposition of the alleged obstacles to payment and I am taking advantage of the opportunity to supply earlier to the President a reciprocal written exposition of the reasons which support the view we hold. The Department will be informed immediately of climaxes.

FRAZER

816.51C39/547

*The Minister in El Salvador (Frazer) to the Secretary of State*

No. 203

SAN SALVADOR, June 23, 1938.

[Received June 29.]

SIR: Pursuant to my telegram No. 19 of June 21, 6 p. m., I have the honor to enclose the English and Spanish versions of a self-explanatory communication dated June 22, which I sent to President Martinez in the latter language this morning.

Respectfully yours,

ROBERT FRAZER

[Enclosure]

*The American Minister (Frazer) to the President of El Salvador (Martinez)*

[SAN SALVADOR,] June 22, 1938.

DEAR MR. PRESIDENT: In view of your kind promise, in our conversation yesterday, to request Dr. Samayoa, the Minister of Finance, to send me a Memorandum regarding the difficulties which prevent the Government which you so ably direct from meeting the payment of  $\text{Q}1,062,500$  on its foreign debt, which is due at the end of the current month, it seems appropriate that I should also furnish the present memorandum of the verbal statements I made to Your Excellency and the reasons which impel me to feel that an unduly pessimistic view of El Salvador's financial position is being taken by those members of Your Excellency's Government who oppose the punctual payment of the above sum. Such a Memorandum might also be of assistance to Dr. Samayoa in pointing out any erroneous conclusions I may have drawn from the statistics available to me.

I beg, therefore, to submit the following:

(1). *Government Revenues for First Ten Months of Fiscal Year*

July 1, 1934 to May 1, 1935 . . . . .	$\text{Q}18,159,964$
“ “ 1935 “ “ 1936 . . . . .	14,564,090
“ “ 1936 “ “ 1937 . . . . .	15,829,536
“ “ 1937 “ “ 1938 . . . . .	16,480,814

The foregoing figures indicate that total revenue during the first ten months of the current fiscal year has been the highest for three years and above the average of the past four years.

(2). *Financial Resources of the Government*

Government's general deposit in the Central Reserve Bank:

May 15, 1935 . . . . .	$\text{Q}1,246,205$
“ “ 1936 . . . . .	3,274,459
“ “ 1937 . . . . .	2,988,087
“ “ 1938 . . . . .	4,196,000

## Deposits of Official Institutions in the Central Reserve Bank:

May 15, 1935 . . . . .	Ø301, 888
“ “ 1936 . . . . .	1, 206, 336
“ “ 1937 . . . . .	1, 331, 199
“ “ 1938 . . . . .	1, 352, 000

  

	<i>Gold Reserve</i>	<i>Note Circulation</i>
May 15, 1935 . . . . .	Ø11, 921, 319 . . . . .	Ø14, 153, 084
“ “ 1936 . . . . .	12, 916, 962 . . . . .	14, 234, 888
“ “ 1937 . . . . .	13, 142, 554 . . . . .	16, 889, 916
“ “ 1938 . . . . .	13, 172, 000 . . . . .	14, 246, 000

The above figures indicate that the Government's financial reserves are larger at this time than they have been for some years.

(3). *Financial Position that Would Exist Were the Loan Service to be Met on June 30, 1938.*

The amount due on the loan service on June 30, 1938, is Ø1,062,500. If this sum were deducted from the Government's general deposit in the Central Reserve Bank, there would still remain in it more than Ø3,000,000. This sum would compare favorably with that on hand on the corresponding date last year *and be much higher than on June 30, 1935, or June 30, 1936*, as shown below:

General deposit June 30, 1935 . . . . .	Ø1, 328, 000
“ “ “ “ 1936 . . . . .	1, 372, 000
“ “ “ “ 1937 . . . . .	3, 270, 000
“ “ “ “ 1938 . . . . .	3, 000, 000 (Approximate)

(4). El Salvador's annual foreign debt service of \$850,000, or Ø2,125,000, amounts to about ten per cent of the country's revenue, which is a very moderate percentage, especially in view of the fact that the internal debt has been practically paid off.

When the annual foreign debt service was double what it is now from 1924 to 1931, or \$1,700,000, payments were punctually made.

(5). *Estimated Revenue from July 1 to December 31, 1938*

It may be that the Government expects to collect smaller revenues in the second semester of 1938 than it has during the first semester. If this expectation should unhappily be realized, conditions which exist at the end of 1938 could more appropriately be discussed when the end of 1938 arrives than they can be now. In so far as the position on this coming June 30th is concerned, the financial position of the Government appears to be so strong as to make easily feasible the payment due on that date.

I have [etc.]

ROBERT FRAZER

816.51C39/548 : Telegram

*The Minister in El Salvador (Frazer) to the Secretary of State*

SAN SALVADOR, June 30, 1938—noon.

[Received 5:43 p. m.]

20. The following is digest of principal points in reply dated June 28 from President Martinez to my memorandum of June 23:

(1) Correctness of figures in memorandum admitted and reference made to solemn promise of last November to renew payments when possible;

(2) Small increase in revenue cannot be alone considered for country is developing and new public services are necessary;

(3) Government bank deposits may not be freely disposed of as they are for specified uses stipulated by law;

(4) The gold reserve cannot be regarded as a financial resource available for current expenses or to meet contractual obligations;

(5) Payment of amount due June 30 would seriously dislocate financial position for amount accumulated as result of nonpayment of debt service is exactly that required to meet threatened deficit;

(6) Prudent foresight requires that regular performance of public services be not jeopardized by the disposition of resources which may be of vital importance later on.

FRAZER

## HAITI

AGREEMENT BETWEEN THE UNITED STATES AND HAITI PROVIDING FOR THE PARTIAL SUSPENSION OF DEBT PAYMENTS, SIGNED JANUARY 13, 1938, AND SUPPLEMENTARY AGREEMENT PROVIDING FOR AN EXTENSION OF THE PARTIAL MORATORIUM, SIGNED JULY 1, 1938.

838.51/3516 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, December 22, 1937—1 p. m.  
[Received 8:46 p. m.]

161. My 160, December 21, 1 p. m.<sup>1</sup> As indicated yesterday an important step forward has been taken in the solution of Haiti's problems. All of these are inter-related with respect to the stability of the Government and the country. The economic situation is basic here in this regard.

Pixley<sup>2</sup> and his colleagues consider this situation to be verging on the desperate. Until it is substantially remedied the local situation would seem precarious. Everything I hear corroborates this. The second export tax reduction on coffee is being unfortunately retarded apparently through Leger's<sup>3</sup> desire not to make any further change in the tax structure during his negotiations for a loan in Paris. His absence at this time is a great handicap. The first tax reduction of one cent per pound was a disappointment because of delay in decision by the Haitian Government. It would be most unfortunate if the same thing occurred again. According to Pixley and others the further reduction seems more hopeful of result if it can be done immediately since the coffee market has been fairly stable for the past 10 days. Indeed local dealers have assured Pixley that a second reduction will begin to move coffee immediately in volume. As the Department realizes this should revitalize trade generally.

Otherwise Pixley and his colleagues see great difficulties if not disaster ahead. This is the period when the Government normally collects the greater part of its revenues for the year. Yet viewing things as optimistically as possible, Pixley believes that revenues for

<sup>1</sup> Not printed.

<sup>2</sup> Rex A. Pixley, Deputy Fiscal Representative of Haiti.

<sup>3</sup> Georges Léger, Haitian Minister for Foreign Affairs and Finance.

January will not exceed a million and a half gourdes under present conditions when they should be around 3,500,000. The Haitian Government hopes to begin January with a Treasury balance of some 6 to 800,000 gourdes whereas the normal monthly budgetary requirement is 2,800,000 gourdes. Every practicable economy is being sought. Pixley and I feel that it is not politically expedient for the Haitian Government to reduce its expenditures now or in the immediate future commensurate with the great loss in revenue both present and prospective. Pixley requests that this be communicated to De la Rue.<sup>4</sup>

Pixley and I continue to be concerned about the Paris loan negotiations. We cannot help but feel that their success would likely mean either a scandalous arrangement for the persons involved or the acquisition by France of a position in Haiti which would be disadvantageous to us in the Caribbean zone, or both. At the same time we realize the delicacy of this matter, unless offering financial facilities ourselves. We hope that consideration may again be given to this either in the manner suggested in paragraph 4 of my 152, December 14, 3 p. m.<sup>5</sup> or otherwise. Could we use the agreement of August 7, 1933,<sup>6</sup> to afford a way to the use of the American public funds for Haiti and as a reason for this special action in her favor vis-à-vis certain other countries in Latin America which may also be in financial difficulties but which are not in the same strategic Caribbean position?

MAYER

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838.51/3516 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, December 24, 1937—1 p. m.

82. Your 161, December 22, 1 p. m. The Department can well appreciate your concern and that of Pixley at the serious condition of Haitian finances aggravated by the delay in the authorization of a further detax on coffee exports pending the final outcome of Léger's negotiations in Paris.

The Department's reluctance to take any steps which might be interpreted as intervention in the domestic affairs of another Amer-

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<sup>4</sup> Sidney de la Rue, Fiscal Representative of Haiti.

<sup>5</sup> Not printed; paragraph 4 reads as follows: "Regarding the Haitian economic situation, is there not some governmental agency, for example the Export-Import Bank, or the Army or Navy, which could contract for the purchase of a sizeable portion of the coffee crop as it becomes available? Something of this sort should be of great encouragement here both financially and in support of the general stability. I have discussed this with Pixley who is in hearty accord with the idea. He as well as I are uncertain as to the practicalities. But in hope something of a similar nature may be practical, we suggest discussion with De la Rue." (838.00/3383)

<sup>6</sup> *Foreign Relations*, 1933, vol. v, p. 755.



ican Republic is strengthened in this case by its desire to avoid any action which might later be seized upon as an excuse for the allegation that the attitude or acts of this Government were responsible for the collapse of negotiations for a foreign loan for Haiti.

Nevertheless, having in mind its responsibilities towards the bondholders of the 1922 loan <sup>7</sup> and more specifically the terms of Article XV of the accord of August 7, 1933, the Department believes that the Acting Fiscal Representative may wish in his own capacity to seek an immediate interview with President Vincent and lay before him as forcefully and clearly as possible the facts and figures of the existing financial situation and the immediate implications thereof.

He may also wish to urge upon the President the necessity for taking the initiative in an immediate general survey of the general tax and budgetary situation with a view to providing additional revenues to replace the yield lost from such detax as may be necessary to start coffee moving and to effecting such economies as may be possible in the more unessential governmental services. In this connection the Department understands that de la Rue, who believes that there is slight possibility of Léger obtaining a loan in Paris, feels that he now should be instructed by the President to return to Haiti to undertake the necessary studies in connection with financial readjustment.

De la Rue is apprehensive that if the situation is allowed to drift, the financial structure of Haiti may be so badly damaged as to result in a complete moratorium. On the other hand, he feels that if salutary measures could be inaugurated immediately it might be possible for Haiti to maintain its debt service as to interest but with a retarded schedule of amortization which would liquidate the loan by its original contract debt of 1952-53.

While the Department shares de la Rue's views, it obviously cannot suggest to the President any course of action, although it would appear proper for you, in response to an inquiry from the President with regard to financial policy to reinforce such observations as Pixley may make to President Vincent.

If the President desires de la Rue to return, he should be informed at once by telegraph. If he is notified by tomorrow it will be possible for him to reach Port-au-Prince by Sunday by plane.

HULL

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<sup>7</sup> Loan contract of October 6, 1922, between the Republic of Haiti and the National City Company and the National City Bank, both of New York; for text, see *Le Moniteur, Journal Officiel de la République d'Haiti*, October 30, 1922; for correspondence relating to the loan, see *Foreign Relations, 1922*, vol. II, pp. 472 ff.

838.51/3519 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, December 27, 1937—noon.

[Received 1:24 p. m.]

167. Department's 82, December 24, 1 p. m. We fully understand and share the Department's point of view as expressed in paragraph 2. We keep this continually in mind in our dealing with this matter.

Meanwhile Pixley and I have been in constant touch working toward the end in view. In a conversation with President Vincent yesterday Pixley felt that he had made considerable progress in bringing the whole matter forefully and clearly to President Vincent's mind. Pixley was hopeful that the President was finally beginning to appreciate the illusory nature of Leger's mission and the necessity for immediate constructive action here. At the same time Pixley and I both feel that the question of effecting economies in governmental expenditure and the imposition of new taxes is a very delicate matter at this period of political uncertainty. As the Department understands the several factors in the whole picture here in Haiti are so inter-related that it appears necessary [apparent omission] with the greatest caution with respect to any one of these factors so that the whole structure may not collapse.

In all the circumstances I heartily concur in De la Rue's desire to return at once to Haiti. As De la Rue has no doubt informed the Department, President Vincent approved this idea and De la Rue expects to arrive here Wednesday. If he were to return to the United States he will have additional up to date local background to assist him in whatever steps are necessary.

In his conversations with President Vincent, Pixley found him so cooperative that it did not appear necessary for me to participate.

MAYER

838.51/3525

*The Secretary of State to the Minister in Haiti (Mayer)*

No. 9

WASHINGTON, December 30, 1937.

SIR: The Department refers to its telegram no. 182 [32] of December 24, 1 p. m., and to your telegram in reply no. 167 of December 27, 12, noon, regarding the difficult financial situation in Haiti.

In the course of recent conversations between officers of the Department and the Fiscal Representative, Mr. Sidney de la Rue, this situation was discussed at length. The Department is in agreement with the Fiscal Representative's opinion that it is now evident that the Haitian Government will in fact be unable to maintain the com-

plete contractual service on the two remaining series of the 1922 loan if the essential services of government are to be maintained in Haiti. The Department believes that the best ultimate protection for the bondholders is the maintenance of such orderly government in Haiti. The Department believes, furthermore, that in view of the fact that the amortization schedule of the 1922 loans had been advanced to a point where the loan in normal circumstances would have been retired in 1943, or approximately nine years before its contractual due date, that the most equitable arrangement for the bondholders would be a temporary partial default in the present amortization schedule.

Accordingly, efforts have been directed towards the elaboration of a plan which would permit Haiti to make such a default with the least temporary dislocation of the existing financial structure, with the least prejudice to the rights of the bondholders, and with the least damage to the financial credit of the Haitian Government. There is enclosed a copy of a memorandum of December 30, which contains the substance of the views of the Department in this matter, and which suggests a procedure for effecting the proposed default in contractual amortization. There is also enclosed a draft of a proposed Accord <sup>8</sup> to be signed by you and a plenipotentiary to be designated by the Haitian Government, modifying for the balance of the current fiscal year the Accord of August 7, 1933.

Mr. de la Rue is thoroughly familiar with the Department's views on the prospective default in amortization and has assured the Department of his readiness to cooperate by assisting the Haitian Government in drafting the proposed basic note mentioned on page three of the enclosed memorandum. In view of the urgency of the matter, since it seems unlikely from Mr. de la Rue's statements, that the Government of Haiti will be able to meet the amortization installment due January 15 and still conserve enough cash in the Treasury to meet its budgetary payroll at the end of January, the need for prompt action is apparent. You are authorized, accordingly, to enter immediately into such conversations as may be initiated by the appropriate officials of the Haitian Government in order to reach agreement on the text of the notes to be exchanged and the Accord to be signed.

There is also enclosed a copy of a memorandum of December 29,<sup>9</sup> from the Legal Adviser's office of the Department relative to the effect of the signature of the proposed new Accord upon the responsibility of the Fiscal Representative as respects the bondholders in the event of the signature of the proposed Accord. As you will note, the suggested additional paragraphs contained in this memorandum have already been incorporated in the memorandum of December 30. This memorandum also contains an opinion with respect to the responsi-

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<sup>8</sup> Not attached to file copy of this document.

<sup>9</sup> Not printed.

bility of the Fiscal Agent under the loan contract should the Haitian Government default wholly or in part on its amortization payments.

Please forward as soon as possible by air mail the text of the proposed Haitian note. In the event that the text appears to be substantially satisfactory the Department will notify you by cable of such changes if any as may seem desirable and will authorize you to sign the agreement.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

[Enclosure]

*Memorandum by Mr. Selden Chapin of the Division of the American Republics to the Under Secretary of State (Welles)*

[WASHINGTON,] December 30, 1937.

MR. WELLES: With reference to RA's<sup>10</sup> memorandum of December 22,<sup>11</sup> it has, unfortunately, become increasingly evident that due to the grave financial situation in Haiti, the Haitian Government will in fact be unable to maintain the complete contractual service on the two remaining series of the 1922 loan and will be obliged to default temporarily on at least part of the contractual amortization payments of the loan.

Sufficient funds to pay interest up through the April 15 coupon are already in the hands of the Fiscal Agent, the National City Bank of New York, New York City. The three contractual amortization payments on the A and C series were made for October, November and December, 1937, a total of \$296,250 on the A loan, and a total of \$49,043.76 on the C loan, being a grand total of \$345,293.76. This would leave outstanding in round sums, including both A and C series, approximately \$8,000,000. The series B loan was retired early in 1937.

Mr. de la Rue states, however, that it is probable that if the January amortization installment is paid over on its due date, January 15, 1938, that there will not be sufficient funds to meet all the salaries and current expenses set forth in the budget of expenditures for the maintenance of the essential services of government in Haiti. He anticipates, therefore, a demand by the Haitian President that a reduction in debt service be made and that that reduction be made effective in advance of the January 15th payment.

At a meeting Tuesday afternoon with Mr. Welles, Mr. Duggan,<sup>12</sup> Mr. Chapin, and Mr. de la Rue, Mr. Welles stated, after hearing Mr.

<sup>10</sup> Division of the American Republics.

<sup>11</sup> Not found in Department files.

<sup>12</sup> Laurence Duggan, Chief of the Division of the American Republics.

de la Rue's exposition on the situation, that it was obvious that the best ultimate protection for the bondholders was the maintenance of orderly government in Haiti. This in turn is predicated upon the continuation and functioning of the essential services. He said, therefore, that he believed that we should be prepared to accept the situation and to concur in a default in amortization for the remainder of the current Haitian fiscal year, the situation to be reexamined prior to the expiration of that period.

Several important considerations were raised and discussed at the meeting with regard to the form that this default should take. It was decided that whatever steps are taken to meet the existing and presumably temporary emergency should be so arranged that the existing financial structure would be disturbed as little as possible with a view to a return to the present arrangements at the earliest permissible date. The legal position of the Fiscal Representative and his office under the accord of August 7, 1933, particularly articles 11, 12, 14, 15, 16, and 17, as well as under the loan agreements, was also discussed.

The following procedure was tentatively agreed upon:

The Haitian Government will present a note to the American Legation in Port-au-Prince outlining the difficult financial situation which Haiti now faces, due to forces beyond its control, and substantiating this statement presumably with a factual memorandum on the economic and financial situation from the office of the Fiscal Representative.

The Haitian Government in this note would ask for recognition of the existing emergency and call attention to the fact that in the circumstances in order to maintain the essential government services, without which there might result political and financial chaos, it had no alternative but to default on a portion of the amortization service. The Haitian Government would reaffirm its intentions of honoring strictly all its financial obligations and its desire to maintain its credit standing. The Haitian Government would state its intention to continue to pay the interest on all outstanding bonds in full and, as a token of its intention to honor its obligations in full, would continue, moreover, to make small regular payments to the sinking fund. The amount of these token payments will be determined in the note from the estimates submitted by Mr. de la Rue upon his return to Haiti. The note would suggest, therefore, the conclusion of a further agreement, or accord, effective for the balance of the current fiscal year which would contain the necessary provisions to permit the payment only of interest and a small amount for amortization, and which would suspend for the remaining part of the current fiscal year all provisions of the Accord of August 7, 1933, which are inconsistent with the new agreement.

In as much as certain duties and obligations of the Fiscal Representative are fixed by the provisions of Articles VI and IX of the Loan Contracts, the Haitian Government should state in the note that it will bring about a suspension for the balance of the current fiscal year of the obligations of the Fiscal Representative under such articles and instead thereof authorize for the corresponding period the Fiscal Representative to set aside from the hypothecated revenues the sums required to be remitted for the payment of interest on the bonds and for a small token payment into the sinking fund and to remit the same to the Fiscal Agent at the times and in the manner provided in the loan contracts and in the bonds.

The Haitian Government in its note would undertake, moreover, to guarantee that there would be no increase in salaries or allowances paid to Haitian Government officials and employees during the period of the default in amortization. The Haitian Government would also undertake that in the event of a substantial increase of revenues, no increase in the ordinary or general budget would be authorized until the contractual amortization payment service had been resumed in full. It would further undertake that extraordinary appropriations outside of the general budget should be restricted to emergencies duly recognized as such in accord with the Fiscal Representative during this period.

In acknowledging the note, the American Minister would inform the Haitian Minister for Foreign Affairs that pursuant to instructions from his Government he was prepared to accept the draft of the agreement suggested by the Haitian Government and to sign this agreement without delay. The Minister would likewise in his reply to the Haitian Minister for Foreign Affairs state that his Government took due note of the intention of the Haitian Government to suspend for the balance of the current fiscal year the obligations of the Fiscal Representative under Articles VI and IX of the Loan Contracts of 1922, and instead thereof to authorize him to set aside from the hypothecated revenues the sums required to be remitted for the payment of interest on the bonds and for a small token payment into the sinking fund, and to remit the same to the Fiscal Agent at the times and in the manner provided in the Loan Agreements and in the bonds.

In view of the impending arrival in the United States on his return to Haiti of M. Georges Léger, Haitian Minister for Foreign Affairs and for Finance, it is possible that his services may be utilized by the Haitian Government in approaching the National City Bank of New York as fiscal agents for the loan with this plan. Should the Fiscal Agent concur in substance with the request of the Haitian Government, it may be possible further that with the assistance of Mr. W. W. Lancaster of General Counsel for the National City Bank, Mr. Léger may then approach the Foreign Bondholders Protective

Council to lay before them the difficult financial situation of Haiti and the procedure envisaged by the Haitian Government along lines generally set forth in the memorandum above.

S[ELDEN] C[HAPIN]

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838.51/3532 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 8, 1938—5 p. m.

[Received 9:45 p. m.]

6. Department's mail instruction No. 9, December 30. De la Rue suggests redrafting of the proposed accord as follows:

First. Article I of the proposed accord should, he thinks, set aside to the credit of the Fiscal Representative the amounts now set aside preferentially for the expenses of the internal revenue service and the internal revenue inspection service.

Second. The suspension by article II of the proposed accord of article XVI of the Agreement of 1933 also should, he thinks, be so worded as surely to suspend also the sentence which reads "the balance may be apportioned by the Haitian Government between the budgets of the various departments as it may see fit."

Third. Provision should also be made, De la Rue thinks, for setting aside preferentially the monthly allocation to the Garde.

In addition, De la Rue inquires whether, in the Department's opinion, specific reference should be made in the proposed accord to the provisions of the second sentence of the second paragraph of page 5<sup>13</sup> of the memorandum dated December 30, or whether it will be sufficient to have these undertakings by the Haitian Government set forth in its note.

MAYER

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838.51/3532 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, January 10, 1938—7 p. m.

4. Your 6, January 8, 5 p. m. In drafting the proposed accord the Department was guided by a desire to disturb the existing financial structure as little as possible and hence wished to limit to a minimum any changes in the stipulations of the accord of August 7, 1933, which might have to be suspended only for the balance of the current fiscal year.

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<sup>13</sup> See p. 580, sentence reading as follows: "The Haitian Government would also undertake that in the event of a substantial increase of revenues, no increase in the ordinary or general budget would be authorized until the contractual amortization payment service had been resumed in full."

More specifically the Department has the following observations with respect to the points now raised by de la Rue.

First and Third: Comparison of the language of Article I of the proposed accord with the first sentence of Article XI of the Accord of August 7, should show that the second and third sentences of this last named article remain in force and are not suspended. If in your opinion, you deem it advisable, you are authorized to insert for the purposes of clarity, the words "the first sentence of Article XI and the first and last sentences of Article XVI" instead of the words "Articles XI and XVI" in the first line of Article II of the proposed accord.

Second: The Department does not believe that it could properly suspend the second sentence of Article XVI since such a suspension would seem to take away from the Haitian Government the right to draw up its own budget. The Department would be gratified however, if the Haitian Government in its note should along with its undertakings state it will so apportion the balance between the budgets of the various departments as to assure the maintenance of the essential services of government.

In the opinion of the Department, it will be sufficient if the other undertakings by the Haitian Government mentioned in the second paragraph on page 5 of RA's memorandum of December 30, 1937, are set forth in the proposed Haitian note.

HULL

838.51/3543

*The Haitian Acting Minister for Foreign Affairs (Alfred) to the American Minister in Haiti (Mayer)*<sup>14</sup>

[Translation]

PORT-AU-PRINCE, January 11, 1938.

MR. MINISTER: My Government desires to submit to the kind attention of your Government the following facts:

Because of the recent measures taken by the Brazilian Government, reducing the export duties on coffee and decreeing freedom of exchange with regard to the sales of this product, such a weakening in the price of coffee in world markets has been produced that the Haitian economy, strictly dependent upon outlets for this article has been profoundly affected.

The exporters, in view of the low level of the price of coffee, have not been able to offer to the producers a sufficiently attractive price in order to get them to sell their product; the purchasing power of the Haitian people which is based on foreign money coming into the country through the sale of coffee, has been reduced to such a point that the

<sup>14</sup> Transmitted to the Department by the Minister in Haiti in his despatch No. 37, January 14; received January 15. Also read over the telephone to the Department on the morning of January 12.



national commerce is languishing in the most distressing stagnation we have ever known, and imports have diminished in considerable proportion.

In order to meet this disastrous situation and create an outlet for coffee, the Government under date of November 27, 1937, issued an order taking off ten centimes of customs duties from exported coffee. Unhappily, despite this sacrifice to which the Government consented, a new variation in price frustrating our efforts has not permitted exporters to offer the peasant fifteen centimes of the gourde per pound, which the peasant considers the minimum required in order that he may undertake to deliver his product, and although small quantities have been shipped, it nevertheless remains that coffee is not being marketed in a manner which can, in any way, be considered as normal.

Meanwhile the receipts have turned almost vertically downward. The Government in order to meet its obligations has had to make use of available resources in the Treasury. Besides, after a careful examination of the situation of the market the Government has come to the conclusion that only an additional detax of five centimes of the Gourde per kilo will enable the marketing of our principal product, and in consequence has decided to issue a decree to this end.

Moreover, the last reports that have been received indicate that by reason of excessive rain during the last three months, the volume of the coffee crop will be considerably less than had been estimated when the ways and means for the fiscal year had been evaluated.

As a consequence of what has preceded, the Office of the Fiscal Representative estimates that export customs duties taking into consideration the detax of 15 cents per kilo mentioned above will be Gdes. 4,129,000.00 less than the amount the ways and means of which had been foreseen in the budget of 1937-38.

The Government on November 11, 1937, increased by ten per cent the amount of its import duties. But even this measure has not had the effect of permitting the treasury to cover its losses resulting from the decrease in coffee prices and the impossibility of finding a market for it. The Bureau of the Fiscal Representative estimates that both because of the decrease in revenues derived from export taxes and because of the smaller value of imports due to the diminishing of the purchasing power of the Haitian people the total revenues of the Government in 1937-1938 will amount to Gdes. 28,690,000.

On the other hand, the budgetary credit opened to the different ministerial departments amounts to Gdes. 32,936,000. The Government by reason of exceptional and urgent circumstances such as the recent international incidents between the Dominican Government and the Republic of Haiti,<sup>15</sup> has had to use special credits amounting

<sup>15</sup> See pp. 178 ff.

to Gdes. 127,000, and has authorized an over expenditure of Gdes. 80,000 per month for the Haitian Guard.

To sum up, the Government cannot look forward to obtaining in the course of the present year more than Gdes. 28,690,000 and it has to face expenditures amounting to Gdes. 34,023,000. The Government has desired to put into effect large economies by a radical tightening of the budget, but unhappily even these restrictions will not permit the public treasury to cover the deficit mentioned above and maintain the essential service of the Government of which the importance for the preservation of a stable political and economic situation is easily understood.

There only remains to the Government in these circumstances the alternative of suppressing administrative services essential to public order and economic stability or of asking the American Government to be good enough once more to prove the friendly spirit which it has always shown toward the Republic of Haiti and not to oppose a partial suspension of the amortization of the loan of 1922 during the present fiscal year.

The Haitian Government which has always met all of its international engagements desires here to renew in the most formal manner its most firm decision to honor its signature to satisfy all of its financial obligations and to preserve its credit intact.

Therefore, in the case that your Government, taking into account the good faith of the Haitian Government and the difficult circumstances which put it under the necessity of making this *démarche*, would be good enough to acquiesce in the above request, the Haitian Government even under the pressure of the great present difficulties agrees to pay regularly the interest on all the outstanding bonds, and as a token of its firm will to honor its signature agrees to make a payment of Gdes. 9.555.55 per month on account of the amortization of the bonds of Series A and Gdes. 1.555.55 on account of the amortization of the loan of Series C during the rest of the present fiscal year.

Inasmuch as certain duties and obligations of the Fiscal Representative are fixed by the provisions of Articles VI and IX of the loan contracts, the Haitian Government obligates itself to bring about the suspension, for the balance of the current fiscal year, of the obligations of the Fiscal Representative under said articles, to the extent necessary, and instead thereof, will authorize for the corresponding period the Fiscal Representative to set aside from the hypothecated revenues the sums required to be remitted for the payment of interest on the said outstanding bonds, as well as for the small token payment into the sinking fund, and to remit the same to the Fiscal Agent at the times and in the manner provided in the loan contracts and in the bonds for the remitting of interest and sinking fund payments.

During the period January 1–September 30, 1938, the Haitian Government undertakes also to guarantee that there shall be no increase in salaries or allowances paid to Haitian Government officials and employees.

The Haitian Government further undertakes that in the event of a substantial increase of revenues, no increase in the ordinary or general budget will be made until the contractual amortization payment service has been resumed in full.

The Haitian Government further undertakes that extraordinary appropriations outside of the general budget would be restricted to emergencies, duly recognized as such in accord with the Fiscal Representative, during the period of the default.

The Haitian Government agrees that the balance foreseen by the provisions of Article XVI of the Accord of August 7, 1933, to be apportioned by the Haitian Government between the budgets of the various departments, shall be so apportioned between the various departments of the Government as to assure the maintenance of the essential services of the Government.

The Haitian Government declares by these presents its readiness to sign an accord with the American Government as follows:

#### ACCORD

The undersigned plenipotentiaries, duly authorized by their respective governments, have agreed upon the following Accord:

#### Article I

On and after January 1, 1938, and until and including September 30, 1938, all monies received by or for the Haitian Government shall be deposited in the National Bank of the Republic of Haiti to the credit of the Haitian Government with the exception of the five per centum of customs revenues foreseen in Article IX of the Accord of August 7, 1933, and the amounts needed for payments connected with execution of Loan Contracts which payments during the period mentioned shall consist of the amounts necessary to pay the interest on all outstanding bonds issued under the Loan Contracts of October 6, 1922, and May 26, 1925, and \$ . . . . . on account of the amounts required to be paid under such Loan Contracts for the amortization of the bonds, which amounts shall be credited to the Fiscal Representative.

#### Article II

The provisions of the first sentence of Article XI and the first and last sentences of Article XVI of the Accord of August 7, 1933, to the extent and only to the extent that they may be inconsistent with the provisions of Article I of this Accord, shall be suspended so long as this Accord remains in effect.

Signed at Port-au-Prince, in duplicate, in the English and French languages, this . . . . . day of . . . . . 1938.

LÉON ALFRED

838.51/3533 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 11, 1938—1 p. m.

[Received 3:25 p. m.]

11. Referring to Department's instruction No. 9, December 30, de la Rue requests following be transmitted:

"Whatever amounts are not required for interest on outstanding bonds automatically increases the amount available for sinking fund. Consequently from the contractual monthly payments it is extremely difficult to determine in advance a percentum of the amounts required for sinking fund. Therefore, we suggest that the third from the last line of article I of the proposed accord be changed by striking out 'percentum' and in place thereof we be authorized to insert 'and blank dollars on account'."

MAYER

838.51/3525 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, January 11, 1938—6 p. m.

5. Department's mail instruction number 9 of December 30 and your letter to Duggan January 4.<sup>16</sup> While Department appreciates your point of view with respect to the desirability that Lescot<sup>17</sup> and de la Rue should make representations to the Foreign Bondholders Protective Council, the possible danger that Leger might attempt to throw the blame for the Haitian default in amortization on to this Government seems out-weighted by the desirability that the Council should be approached before actual default occurs on January 15. Accordingly, the Department has decided to approach M. Leger on his arrival in Washington tomorrow or the next day and to suggest to him that in company with Mr. Lancaster of the National City Bank, the local agent for the loan, he should advise the Council of the impending default and lay before the Council a brief memorandum of the factors necessitating this action by the Haitian Government.

In the event that the draft note referred to in Department's instruction number 9 and including a statement understood to be prepared by Mr. de la Rue of the circumstances leading up to the default, has not yet been forwarded to the Department, the Department desires you to request Mr. de la Rue to prepare as brief a summary as possible which might be cabled to the Department for delivery to M. Leger to form a basis for his more amplified statement to the Council.

HULL

<sup>16</sup> Latter not found in Department files.

<sup>17</sup> Elie Lescot, Haitian Minister in the United States.

838.51/3534 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 11, 1938—8 p. m.  
[Received 8:33 p. m.]

12. The Department's mail instruction No. 9, December 30. The Haitian Government's note which had been preliminarily submitted to me by De la Rue this afternoon has now been received. De la Rue and I consider that it covers adequately the requirements set forth in RA memorandum of December 30 since it coincides almost verbatim with its suggestions. The text of the accord is identical with that transmitted by the Department except for the changes authorized by the Department's telegram No. 4, January 10, 7 p. m. and the change requested in my telegram No. 11, January 11, 1 p. m.

De la Rue states that in order to prevent disruption of essential Haitian Government services the exchange of notes and the accord should be effected and his office notified by Thursday morning, January 13. There is no air mail until Friday. Does the Department desire text of the note and accord be telegraphed or will the Department authorize reply to note and signature of accord on the basis of this telegram? Please rush instructions.

MAYER

838.51/3535 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 12, 1938—10 a. m.  
[Received 12:05 p. m.]

13. Department's telegram No. 5, January 11, 6 p. m. De la Rue states that he sent a long personal letter to Leger in care of the Haitian Consul, New York, and the Haitian Legation at Washington on January 8 which, he feels, when examined with the financial statement, et cetera, which he enclosed, will give Leger all the material he needs. The situation since January 8 has borne out his estimates as of that date. If, after Leger has conversed with the Under Secretary, he has need of additional data, de la Rue stands ready to furnish it by telegraph.

MAYER

838.51/3537 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 12, 1938—2 p. m.

[Received 4: 17 p. m.]

16. De la Rue requests the following sent to the Under Secretary:

“We have not the funds in bank nor any assurance that funds will become available during the balance of this month sufficient to permit salaries to be paid Government employees and the Garde allocation made on February 1, next. In order to avoid unilateral action which Government to date has not suggested but which the emergency in my opinion otherwise might cause them to suggest, it is necessary that the accord be approved and signed and that a law be thereafter voted by Permanent Legislative Committee which will authorize this office not to transfer contractual sinking fund payment already set aside for January 15. If this amount is not transferred and can be used to supplement receipts we believe we will be able to meet salaries and Garde payments. Legally we must transfer it unless otherwise authorized in time to have law voted and promulgated. Urgently recommend that signature of accord be authorized and that Leger make his explanations immediately to the Protective Council but that these two matters be separated so that we may proceed here without delay which otherwise would be unavoidable. We are unable to give figures on budget and tax structure changes which are in process of formation although we have been working day and night in full accord with Cabinet and Permanent Legislative Council, but this work is not completed and cannot be completed much before tomorrow night. Consequently new reports and estimates cannot be made available in detail for purposes of Protective Council until next week. Under these conditions Leger can do nothing more than advise them of the emergency and of the principles incorporated in Haitian note and proposed accord.”

MAYER

838.51/3538 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, January 12, 1938—6 p. m.

[Received 8:20 p. m.]

17. Referring to my telephone conversation this morning with regard to the note to be delivered to the Haitian Government in reply to its note of January 11, 1938, I submit herewith the draft of the proposed reply:

“Excellency, I have the honor to acknowledge the receipt of Your Excellency’s note dated January 11, 1938, describing the financial difficulties which are being experienced by the Haitian Government, due you state, in large part to the recent abrupt decline of coffee prices in the world markets, the measures the Haitian Government has taken

in the hope of overcoming these difficulties, and stating that in spite of these efforts the Haitian Government will not be able during the period January 1–September 30, 1938, inclusive, to maintain the essential services of the Government and, simultaneously, the full amortization service on the outstanding bonds of the loan of 1922.”

Here follows a repetition of the Haitian Government’s note of January 11, 1938, repeated to you over the telephone this morning beginning with “to sum up, the Government can not look forward to obtaining in the course of the present year” and continuing to the end of the note including the proposed accord in the English text.

In conclusion my reply would say :

“Pursuant to instructions which I have received from the Secretary of State I now have the honor to inform Your Excellency that I am authorized to sign this accord on behalf of the Government of the United States. I await, therefore, an indication of Your Excellency’s pleasure as to the time and place for signing the proposed accord.

Accept, Excellency, et cetera.”

MAYER

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838.51/3537 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, January 12, 1938—8 p. m.

7. From the Under Secretary. Please inform Mr. de la Rue that I am appreciative of his desire that a law be voted as soon as possible by the permanent legislative committee authorizing his office not to transfer the contractual sinking fund payment already set aside for January 15. It has seemed to me desirable however that the Foreign Bondholders Protective Council be advised in advance of signature of the accord of the proposal to suspend sinking fund payments except for the token payments. This organization was established on the initiative of this Government in order to be helpful in situations similar to that now confronting Haiti.<sup>18</sup> The Department upon learning of prospective defaults either in whole or in part on debt service by foreign governmental entities has, since the formation of the Council, expressed the hope to these governmental entities that they will discuss their proposals with the Council prior to taking action in order that the Council may give such advice as it sees fit in the interest of bondholders. Moreover, in the case of Haiti this Department has particular responsibilities to the bondholders which makes it particularly desirable that the Council be consulted in advance of the prospective action that the Haitian Government desires to take.

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<sup>18</sup> See *Foreign Relations*, 1933, vol. 1, pp. 934 ff.

I am advised that the Minister of Finance will consult with the Council tomorrow, and, I am hopeful that by tomorrow afternoon I shall be in a position to authorize the exchange of notes and the signature of the new accord. [Welles.]

HULL

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838.51/3541a : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, January 13, 1938—6 p. m.

8. M. Léger explained to White,<sup>19</sup> of the Foreign Bondholders Protective Council, the proposed accord and the reasons necessitating it. White expressed deep appreciation for the courtesy of the Haitian Government in consulting the Council and is going to recommend to the Board of Directors of the Council that it issue a statement supporting the plan before the bondholders. If the Board approves, this statement will be issued on Thursday. In as much as it will not be possible for the Department to issue the precise text of the exchange of notes and the accord to the press until Tuesday, and in view of the helpful attitude which the Council has taken and of its desire that release of the documents not be made until Thursday, it is hoped that the Haitian Government will be agreeable to postponing the release until that time.

You are authorized to reply to the Haitian note as set forth in your telegram no. 17, January 12, 6 p. m., and to sign the accord at once.

HULL

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838.51/3543

*The American Minister in Haiti (Mayer) to the Haitian Acting Minister for Foreign Affairs (Alfred)*<sup>20</sup>

No. 13

PORT-AU-PRINCE, January 13, 1938.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note dated January 11, 1938, describing the financial difficulties which are being experienced by the Haitian Government, due, you state, in large part to the abrupt recent decline of coffee prices in the world markets, the measures the Haitian Government has taken in the hope of overcoming these difficulties, and stating that in spite of these efforts the Haitian Government will not be able during the period January 1–September 30, 1938, inclusive to

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<sup>19</sup> Francis White, Executive Secretary and Vice-President of the Foreign Bondholders Protective Council, Inc.

<sup>20</sup> Copy transmitted to the Department by the Minister in Haiti in his despatch No. 37, January 14; received January 15.



maintain the essential services of the Government and, simultaneously, the full amortization service on the outstanding bonds of the loan of 1922. In brief, the Haitian Government affirms that it cannot expect to receive more than Gdes. 28,690,000 during the balance of the year and must provide for expenditures amounting to Gdes. 34,023,000.

The Government further states that it has desired to put into effect large economies by a radical tightening of the budget, but that unhappily even these restrictions will not permit the public treasury to cover the deficit mentioned above and maintain the essential service of the Government of which the importance for the preservation of a stable political and economical situation is easily understood.

There only remains, according to Your Excellency's Government, in these circumstances, the alternative of suppressing administrative services essential to public order and economic stability or of asking the American Government to be good enough once more to prove the friendly spirit which it has always shown toward the Republic of Haiti and not to oppose a partial suspension of the amortization of the loan of 1922 during the present fiscal year.

The Haitian Government's note of January 11th further states that having always met all of its international engagements, it desires to renew in this note in the most formal manner its most firm decision to honor its signature, to satisfy all of its financial obligations and to preserve its credit intact.

The Haitian Government adds that, therefore, in the case that my Government, taking into account the good faith of the Haitian Government and the difficult circumstances which put it under the necessity of making this *démarche*, would be good enough to acquiesce in the above request, the Haitian Government, even under the pressure of the great present difficulties, agrees to pay regularly the interest on all the outstanding bonds, and as a token of its firm will to honor its signature agrees to make a payment of Gdes. 9,555.55 per month on account of the amortization of the bonds of Series A, and Gdes. 1,555.55 on account of the amortization of the loan of Series C during the rest of the present fiscal year.

Your Excellency's note of January 11th continues that inasmuch as certain duties and obligations of the Fiscal Representative are fixed by the provisions of Articles VI and IX of the loan contracts, the Haitian Government obligates itself to bring about the suspension, for the balance of the current fiscal year, of the obligations of the Fiscal Representative under said Articles, to the extent necessary, and instead thereof will authorize for the corresponding period the Fiscal Representative to set aside from the hypothecated revenues the sums required to be remitted for the payment of interest on the said outstanding bonds, as well as for the small token payment into the sinking fund, and to remit the same to the Fiscal Agent at the

times and in the manner provided in the loan contracts and in the bonds for the remitting of interest and sinking fund payments.

Furthermore, during the period January 1–September 30, 1938, the Haitian Government, in its note of January 11th under acknowledgment, undertakes also to guarantee that there shall be no increase in salaries or allowances paid to Haitian Government officials and employees.

The Haitian Government further undertakes, in the note above referred to, that in the event of a substantial increase of revenues, no increase in the ordinary or general budget will be made until the contractual amortization payment service has been resumed in full.

The Haitian Government further undertakes, in the note of January 11th, that extraordinary appropriations outside of the general budget would be restricted to emergencies, duly recognized as such in accord with the Fiscal Representative, during the period of the default.

In its note of January 11th, the Haitian Government further agrees that the balance foreseen by the provisions of Article XVI of the Accord of August 7, 1933, to be apportioned by the Haitian Government between the budgets of the various departments, shall be so apportioned between the various departments of the Government as to assure the maintenance of the essential services of the Government.

The Haitian Government finally declares by these presents its readiness to sign an accord with the American Government as follows:

#### ACCORD

The undersigned plenipotentiaries, duly authorized by their respective governments, have agreed upon the following Accord:

#### Article I

On and after January 1, 1938, and until and including September 30, 1938, all moneys received by or for the Haitian Government shall be deposited in the National Bank of the Republic of Haiti to the credit of the Haitian Government with the exception of the five per centum of customs revenues foreseen in Article IX of the Accord of August 7, 1933, and the amounts needed for payments connected with execution of the Loan Contracts which payments during the period mentioned shall consist of the amounts necessary to pay the interest on all outstanding bonds issued under the Loan Contracts of October 6, 1922, and May 26, 1925, and \$20,000 on account of the amounts required to be paid under such Loan Contracts for the amortization of the bonds, which amounts shall be credited to the Fiscal Representative.

#### Article II

The provisions of the first sentence of Article XI and the first and last sentences of Article XVI of the Accord of August 7, 1933, to

the extent and only to the extent that they may be inconsistent with the provisions of Article I of this Accord, shall be suspended so long as this Accord remains in effect.

Signed at Port-au-Prince, in duplicate, in the English and French languages, this . . . . . day of . . . . . nineteen hundred and . . . . .

Your Excellency was good enough to transmit with your note under acknowledgement the following documents:

(1) A letter from the Fiscal Representative to the President of the Republic, dated January 7, 1938,<sup>21</sup> describing the coffee situation.

(2) A letter of the Fiscal Representative to the Secretary of State for Foreign Affairs and for Finance *a. i.*, dated January 11, 1938,<sup>21</sup> describing the financial situation.

Pursuant to instructions which I have received from the Secretary of State, I now have the honor to inform Your Excellency that I am authorized to sign this Accord on behalf of the Government of the United States. I await, therefore, an indication of Your Excellency's pleasure as to the time and place for signing the proposed Accord.

Accept [etc.]

FERDINAND L. MAYER

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[For the text of the agreement between the United States and Haiti modifying the agreement of August 7, 1933, signed at Port-au-Prince on January 13, 1938, see Executive Agreement Series No. 117, or 52 Stat. 1473. The text of the accord as printed in these sources is identical with the draft included in the document printed *supra*.]

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838.51/3584

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 139

PORT-AU-PRINCE, April 21, 1938.

[Received April 25.]

SIR: Referring to my despatch No. 138 of April 20, 1938<sup>21</sup> in which among other things the Legation reported that the Fiscal Representative had been instructed by the Haitian Government to proceed to the United States for certain purposes among which was the inauguration of preliminary conversations with the Foreign Bondholders Protective Council with a view to a new accord on the external loan, I have the honor to transmit herewith enclosed an office

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<sup>21</sup> Not printed.

copy and translation of the instructions to the above effect which the Minister for Finance wrote to Mr. de la Rue under date of April 19, 1938.

Respectfully yours,

FERDINAND L. MAYER

[Enclosure—Translation]

*The Haitian Minister for Finance (Léger) to the Fiscal Representative of Haiti (De la Rue)*

PORT-AU-PRINCE, April 19, 1938.

MR. FISCAL REPRESENTATIVE: It is becoming evident that it is no longer possible to hope that in the immediate future there will be an appreciable improvement in the economic and financial situation of the Republic of Haiti.

On the contrary, it is to be anticipated that the present low price of coffee will persist, at least during next year, and that in consequence the receipts from its exportation will be approximately the same for the next as for the current budget.

In these circumstances, the Government finds it necessary to negotiate with the American Government a new Accord for the service of the amortization of the external loan.

I should, therefore, be obliged to you if you would be good enough to go to New York in order to commence preliminary conversations to this end, notably with the Foreign Bondholders Protective Council.

I will communicate to you at a later date if the Government believes it is necessary to negotiate an accord similar to that which was signed on January 13, 1938, only for the fiscal year 1938-1939, or if it considers the new accord should cover a period of two years.

I wish to invite your attention to the fact that it will be impossible for me to draw up and have voted a budget for the period 1938-1939 so long as a new accord for the amortization for the debt shall not have been concluded.

Accept [etc.]

GEORGES LÉGER

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838.51/3599: Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, May 10, 1938—1 p. m.

[Received 3:08 p. m.]

49. For Mayer. Upon telegraphic instructions from De la Rue, Pixley has informed Léger that the Department has authorized you upon your arrival to agree after a request from him to an extension

for 1 year of the accord of January 13 on the same general terms and conditions.

Garde death sentences commuted yesterday to life imprisonment.<sup>28</sup>

FINLEY

838.51/3616 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, June 8, 1938—1 p. m.

[Received 2:20 p. m.]

57. Reference my mail despatch No. 184, June 3.<sup>24</sup> Pixley tells me that Leger has just informed him that he intends to instruct De la Rue today by telegraph to begin negotiations with the Foreign Bondholders Protective Council with regard to continuing the moratorium on the amortization of the 1922 loan.

MAYER

838.51/3629 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, June 15, 1938—noon.

[Received 2 p. m.]

65. An official note dated June 14<sup>25</sup> has been received from the Haitian Government stating that the conditions which prompted Haiti to request a moratorium on part of the amortization of the loan of 1922 have not changed for the better in the meantime and that accordingly a renewal of the moratorium is requested for the next fiscal year. In making this request the Haitian Government confirms its desire to continue to execute all the engagements expressed in its note of January 11, 1938. A copy of a letter from the Fiscal Representative to the Minister of Finance concerning estimates of receipts for the fiscal year 1938-39—accompanies Leger's note of June 14.

Copy of note is being forwarded in air mail today and translation and accompanying documents will follow Friday.

Does the Department desire the Legation to draft a reply for submission to it, or will the Department itself send us the reply it desires made?

<sup>28</sup> Certain officers of the Haitian Garde were tried by court martial for complicity in the attempted assassination of the commander of the Palace Garde and given death sentences, but the President commuted these to imprisonment for different periods of time at hard labor (838.00/3407, 3411, 3415, 3517).

<sup>24</sup> Not printed.

<sup>25</sup> *Post*, p. 596.

De la Rue has telegraphed Pixley that he cannot initiate discussions with Protective Council of Bondholders until he has been advised that an official request of the Haitian Government for the extension of the moratorium has been received by the Legation. The above note would seem to be what de la Rue feels he requires. In the absence of any instructions from the Department that formalities are necessary prior to the initiating of de la Rue's discussions with Bondholders Protective Council (please see the Legation's despatch No. 139 of April 21, 1938) we have assumed that de la Rue has ample authority from the Haitian Government and the Department to proceed.

MAYER

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838.51/3634

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 199

PORT-AU-PRINCE, June 17, 1938.

[Received June 18.]

SIR: I have the honor to refer to my telegram No. 65, June 15, 12 noon, 1938, and to transmit herewith a copy and translation of Haitian Foreign Office note dated June 14, 1938, and its enclosures requesting the extension for another year of the moratorium which resulted from the Accord of January 13, 1938.

Respectfully yours,

FERDINAND L. MAYER

[Enclosure—Translation]

*The Haitian Minister for Foreign Affairs (Léger) to the American Minister (Mayer)*

PORT-AU-PRINCE, June 14, 1938.

MR. MINISTER: The economic and financial situation of the Republic of Haiti, not having been modified to any extent since my letter of January 11, 1938, and the economic perspective for the fiscal year 1938-39 not leaving grounds for hope that any notable betterment may come about, my Government finds itself obliged to ask your Government to be good enough to prolong the stipulation of the Accord of January 13, 1938, for a new period of time, running from October 1, 1938, to September 30, 1939.

The world market for coffee has scarcely changed and the situation is still the same as that depicted in my letter of January 11. From that date to today prices have not been maintained at the levels which we hoped for and in consequence the fiscal receipts for the current

year will attain with difficulty the sum of Gdes. 28,000,000 in spite of the fact that I had foreseen Gdes. 28,690,000 in my letter.

The Haitian Government has realized the economies in its budget to which it engaged itself January 11, 1938, and naturally will take the necessary measures to face its expenses during the end of the present fiscal year by means of its available funds. It is evident that in these conditions the treasury will not possess any appreciable reserve at the beginning of the next fiscal year.

The office of the Fiscal Representative estimates the ways and means of the next fiscal year at the sum of Gdes. 29,189,000. This sum is clearly insufficient to permit the Government to maintain the administrative services necessary to public order, and its economic stability, and at the same time to assure the full amortization of the loan of 1922.

In begging your Government to accept to prolong its Accord of January 13, 1938, for the period of one year, the Haitian Government confirms its determination to continue to execute during the period of the prolongation all the engagements expressed in my letter of January 11, 1938.

I have the honor to enclose, under this cover, a copy of a letter from the Fiscal Representative dated today,<sup>26</sup> addressed to the Secretary of State for Finance concerning the estimates of receipts, during the fiscal year 1938-39.

I seize the occasion [etc.]

GEORGES N. LÉGER

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838.51/3546

*The Fiscal Representative of Haiti (De la Rue) to the Chief of the Division of the American Republics (Duggan)*

NEW YORK, June 17, 1938.

MY DEAR MR. DUGGAN: In accordance with instructions of the Secretary of State for Foreign Affairs and Finance of the Republic of Haiti, I have presented to-day to Mr. Francis White, President of the Foreign Bondholders Protective Council at 90 Bond Street, New York, New York, the request of the Republic of Haiti for favorable consideration by the Bondholders' Council of an extension of the Accord of January 13, 1938, entered into between the Government of the United States of America and the Republic of Haiti, for the partial suspension of Sinking Fund payments for a new period to commence October 1, 1938, and ending September 30, 1939.

A copy of the letter by which this was formally presented has already been informally delivered to Mr. Selden Chapin, and it is

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<sup>26</sup> Printed in Foreign Bondholders Protective Council, Inc., *Annual Report, 1938* (New York, 1939), p. 730.

requested that that letter be attached to this report for your record.

Mr. White gave a friendly and favorable reception to the presentation made and said that it would be communicated by him to the Committee of the Bondholders' Council on Tuesday next. In the interval he plans to get in touch with you to discuss action which is incidental to the matter.

Very truly yours,

S. DE LA RUE

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838.51/3631 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, June 22, 1938—5 p. m.

50. Your despatch no. 198 of June 15, 1938.<sup>27</sup> De la Rue states that when he broached the matter of an extension of the partial moratorium in the amortization of the 1929 loan to Mr. Francis White of the Foreign Bondholders Protective Council, the latter expressed sympathy and understanding of the Haitian position and extended "a friendly and favorable reception to the presentation made" to the effect that it would be impossible for Haiti to continue to maintain the essential services of government if it is to resume the full amortization payments on October 1 of this year.

Accordingly you are requested to acknowledge the receipt of note no. 38 of June 14 from the Haitian Minister of Foreign Affairs, a copy of which was enclosed in your despatch under reference. You should state in your acknowledgment that you are authorized, and authorization is hereby given you, to sign a supplemental executive agreement extending the Accord of January 13, 1938 for 1 year from September 30, 1938.

Referring to the statement in the Haitian note that the Government of Haiti will continue during the period of the prolongation all the engagements set forth in its note of June 11, 1938, and referring also to the undertaking of the Haitian Government in the last-mentioned note that extraordinary appropriations outside of the general budget would be restricted to emergencies, duly recognized as such in accord with the Fiscal Representative, during the period of the default, you may state in your acknowledgment that "My government understands that the specific undertaking mentioned is not designed to prevent appropriations for the construction of public works aimed at increasing the economic prosperity of the country, the funds for which will be obtained from a loan floated by the Haitian Government for this specific purpose. Please advise me whether your government shares this understanding."

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<sup>27</sup> Not printed; it transmitted copies in French of the Haitian Government's note of June 14 and its enclosures.



It is the Department's desire that the new agreement be drawn up in the identical text of the above-named agreement of January 13, 1938 with the exception of the first clause in Article I which should read as follows: "On and after October 1, 1938 and until and including September 30, 1939, all moneys, et cetera." The date on which the Accord is to be signed is left for determination by mutual agreement with the Haitian Minister for Foreign Affairs.

HULL

838.51/3649

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 222

PORT-AU-PRINCE, July 1, 1938.

[Received July 5.]

SIR: I have the honor to refer to my telegram No. 74, dated July 1, 12 noon, 1938,<sup>28</sup> and to enclose the Supplementary Executive Agreement between the United States and Haiti which was signed here this morning,<sup>29</sup> prolonging the partial moratorium on amortization of the 1922 Loan until September 30, 1939. The signed document is enclosed.

There are also transmitted copies of the exchange of Notes preliminary to the signing of the Accord.

Respectfully yours,

FERDINAND L. MAYER

[Enclosure 1]

*The American Minister (Mayer) to the Haitian Minister for Foreign Affairs (Léger)*

No. 65

PORT-AU-PRINCE, June 27, 1938.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's Note dated June 14, 1938, which states that the economic and financial situation of the Haitian Government has scarcely been modified since January 11, 1938, the date of Your Excellency's last communication on this subject, and that the outlook for the fiscal year 1938-1939 does not permit the hope that this situation will notably improve. The Haitian Government, therefore, finds itself obliged to request the American Government to prolong the provisions of the Accord of January 13, 1938, for a further period, running from October 1, 1938, to September 30, 1939.

Your Excellency states that the world market for coffee has scarcely changed, and that the situation in this respect is still the same as that described in the Note of January 11, 1938. Prices have not

<sup>28</sup> Not printed.

<sup>29</sup> Executive Agreement Series No. 128, or 53 Stat. 1923.

been maintained at the hoped for levels and, consequently, the receipts of the Haitian Government will attain with difficulty the sum of Gdes. 28,000,000 although Gdes. 28,690,000 had been foreseen.

It is noted that Your Excellency's Government has most meritoriously realized the economies to which it engaged itself in its Note of January 11, 1938, and, with its available funds, will meet its expenses during the remainder of the present fiscal year. It is also noted that in these conditions the Haitian Treasury will possess no appreciable reserve at the beginning of the next fiscal year.

Your Excellency continues by stating that the Office of the Fiscal Representative estimates receipts during the next fiscal year at Gdes. 29,189,000, a sum clearly insufficient, you state, to permit the Government to maintain the services necessary to public order and economic stability and, at the same time, to assure the full amortization of the loan of 1922.

In requesting the American Government to prolong the period of the reduction in amortization granted in the Accord of January 13, 1938, Your Excellency confirms the determination of the Haitian Government to continue the execution of all the engagements taken in the Note of January 11, 1938, and encloses a copy of a letter, dated June 14, 1938, from the Fiscal Representative setting forth his estimates of receipts during the fiscal year 1938-1939.

In reply, I have the honor to inform Your Excellency that I have been authorized by my Government to conclude and sign a Supplementary Executive Agreement extending the Accord of January 13, 1938, for one year from September 30, 1938, as follows:

#### "SUPPLEMENTARY EXECUTIVE AGREEMENT

The undersigned plenipotentiaries, duly authorized by their respective governments, have agreed upon the following supplementary executive agreement:

#### Article I

On and after October 1, 1938, and until and including September 30, 1939, all moneys received by or for the Haitian Government shall be deposited in the National Bank of the Republic of Haiti to the credit of the Haitian Government with the exception of the five per centum of customs revenues foreseen in Article IX of the Accord of August 7, 1933, and the amounts needed for payments connected with the execution of the Loan Contracts which payments during the period mentioned shall consist of the amounts necessary to pay the interest on all outstanding bonds issued under the Loan Contracts of October 6, 1922, and May 26, 1925, and \$20,000 on account of the amounts required to be paid under such Loan Contracts for the amortization of the bonds, which amounts shall be credited to the Fiscal Representative.

## Article II

The provisions of the first sentence of Article XI and the first and last sentences of Article XVI of the Accord of August 7, 1933, to the extent and only to the extent that they may be inconsistent with the provisions of Article I of this Accord, shall be suspended so long as this Supplementary Executive Agreement remains in effect.

Signed at Port-au-Prince, in duplicate, in the English and French languages, this . . . . . day of . . . . ., nineteen hundred and thirty eight."

Referring to the statement in Your Excellency's Note under acknowledgment that the Government of Haiti will continue during the period of the prolongation of the reduction in amortization payments to carry out all the engagements set forth in the Note of January 11, 1938, and also to the understanding of the Haitian Government in the last mentioned Note that extraordinary appropriations outside of the general budget would be restricted to emergencies duly recognized as such in accord with the Fiscal Representative during the period of the default, my Government understands that the specific undertaking mentioned is not designed to prevent appropriations for the construction of public works aimed at increasing the economic prosperity of the country, the funds for which will be obtained from a loan floated by the Haitian Government for this specific purpose. I shall be pleased to learn whether Your Excellency's Government shares this understanding. I shall also be pleased to learn Your Excellency's pleasure as to the time and place for signing the proposed Supplementary Executive Agreement.

Accept [etc.]

FERDINAND L. MAYER

[Enclosure 2—Translation]

*The Haitian Minister for Foreign Affairs (Léger) to the American Minister (Mayer)*

PORT-AU-PRINCE, June 29, 1938.

MR. MINISTER: I have the honor to acknowledge receipt of the letter of the 27th of this June, by which Your Excellency was good enough to advise me that you had been authorized by your Government to sign an agreement extending for a period of one year the arrangement entered into by our two Governments on January 13, 1938, relative to the amortization service on the 1922 loan.

Thanking Your Excellency for that communication, I have the honor to suggest that the agreement in question be signed at 11 a. m. on the 30th of this June, if that date and hour suit Your Excellency.

It is understood between the two Governments, as you have brought out in your letter, that the engagements assumed by the Haitian Government in the letter of January 11, 1938, do not place any obstacle

in the way of the passing of appropriations for the execution of public works intended to augment the economic prosperity of the country, in case the Haitian Government should succeed in its efforts to finance such works.

Please accept [etc.]

GEORGES N. LÉGER

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REPRESENTATIONS AGAINST THE INCLUSION IN THE FRANCO-HAITIAN COMMERCIAL AGREEMENT OF PROVISIONS REGARDING THE FRENCH GOLD LOAN OF 1910, AND FAILURE OF THE HAITIAN GOVERNMENT TO EXTEND MOST-FAVORED-NATION TREATMENT<sup>20</sup>

638.5131/190

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 58

PORT-AU-PRINCE, February 3, 1938.

[Received February 5.]

SIR: I have the honor to inform the Department that in the course of a conversation which the Second Secretary of the Legation<sup>21</sup> had recently with M. Pierre de Francqueville, Chargé d'Affaires of France at Port-au-Prince, the latter informed Mr. Finley that M. Adrien de Lens, French Minister here, who is now in France, will return to Haiti about the first of April. At the same time, M. de Francqueville said that, especially if Mr. Léger<sup>22</sup> remained in office, M. de Lens was hopeful upon his return that the question of Franco-Haitian commercial relations could be straightened out.

It would first, of course, be necessary to arrive at some conclusion with regard to the 1910 question.<sup>23</sup> This M. de Lens had in mind to solve by getting Haiti's agreement to the imposition in France of a small surtax on imports of Haitian coffee. This surtax would be collected in France, and in the course of ten or fifteen years would satisfactorily pay off the 1910 bondholders. Certain technical difficulties would have to be ironed out, for under French law, as it exists at present, French customs officials have no authority to collect funds for the benefit of private individuals. M. de Francqueville felt, however, that these technical questions could be overcome. He did not state the amount of the surtax that was contemplated.

The size of the proposed surtax in France on Haitian coffee is, of course, determinant in this matter. I understand it is 25 cents per pound. Offhand, it is to be feared that a satisfactory commercial arrangement with Haiti having been obtained, and after Haiti had

<sup>20</sup> For previous correspondence, see *Foreign Relations*, 1937, vol. v, pp. 560 ff.

<sup>21</sup> Harold D. Finley.

<sup>22</sup> Georges Léger, Haitian Minister for Foreign Affairs and Finance.

<sup>23</sup> French loan of September 5, 1910; for text of contract, see *Le Moniteur, Journal Officiel de la République d'Haiti*, October 26, 1910.

obtained a reasonable quota for coffee from France, the result might possibly be that a "squeeze play" method would have been inaugurated which could easily result unhappily for Haiti and put her whole coffee export to France on an official "blackmail" basis for the present and future.

That such a scheme is being considered is borne out by a subsequent conversation which I had with M. Léger, the Minister for Foreign Affairs. M. Léger, of his own volition, brought up this subject, confirmed largely what had been told me by M. de Francqueville, and said that he wished to put something before me in a purely personal way. He said Haiti continued to be embarrassed by the reluctance of the Department to contemplate any sort of settlement by his Government of the 1910 question, for they now needed the French coffee market in the worst way. France had shown itself adamant in refusing to grant a coffee quota to Haiti until the 1910 question is settled. Thus the matter was in an impasse. He wondered whether all possible pressure had been brought by the United States to get France to divorce the two questions—not only in principle but in practice. M. Léger said he felt sure that with France in its present financial difficulties a good deal of pressure could be brought by the United States. He said, however, that he did not wish to broach this possibility officially but that he hoped the Department would see and understand the predicament Haiti was in.

I said I would bring this to the Department's attention in the way it had been presented to me. I feel that whether or not the Department wishes again to enter into this perennial question, the fact that I can tell M. Léger that I have written the Department will please him. Considering this matter from its several angles, the Department may care to take up this subject again with the French Government, not on the basis, suggested by Léger, of trying to make that Government carry out its promise to divorce the 1910 bondholders' claims from the question of a commercial treaty with France, but rather in order strongly to press the French Government to abandon the pretensions of the 1910 bondholders and all the blackmail tactics and chicanery with which it has been supporting them, and to negotiate a trade convention with the Haitian Government on its own merits. In other words, might it be profitable at this time, in taking up the cudgels for Haiti, to shift the argument more in line with our own interests which might also prove immediately advantageous to Haiti and thus, by direct attack, to seek to lay once and for all the ghost of the French threat against the priority of the 1922 bondholders.<sup>34</sup>

Respectfully yours,

FERDINAND L. MAYER

<sup>34</sup> Loan contract of October 6, 1922, between the Republic of Haiti and the National City Company and the National City Bank, both of New York; for text, see *Le Moniteur, Journal Officiel de la République d'Haiti*, October 30, 1922; see also *Foreign Relations*, 1922, vol. II, pp. 472 ff.

638.5131/191

*The Secretary of State to the Minister in Haiti (Mayer)*

No. 43

WASHINGTON, March 29, 1938.

SIR: The Department referred a copy of your despatch no. 58 of February 3, 1938, on Franco-Haitian commercial relations and the 1910 loan bonds to the Embassy in Paris with a request for comments on the desirability of broaching the matter again to the French Government and the possible efficacy of further representations.

There is enclosed a copy of the Embassy's despatch no. 1899 of March 7, 1938,<sup>36</sup> in reply, from which it will be noted that the Chargé d'Affaires, after detailing certain reasons, expresses the opinion, in which the Department concurs, that the "reopening of discussions on the specific subject of the 1910 bonds and their relationship to the French attitude vis-à-vis a commercial convention would be entirely futile".

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

638.5131/192

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 126

PORT-AU-PRINCE, April 6, 1938.

[Received April 12.]

SIR: I have the honor to report that despatch No. 1899 dated March 7, 1938, from the Paris Embassy,<sup>36</sup> a copy of which was enclosed with the Department's instruction No. 43 dated March 29, 1938, has been read with considerable interest and it is noted that unless the Department feels it advisable to bring unusual pressure to bear on the French Government, the Embassy feels that re-opening discussion of the 1910 question in its relation to a new Franco-Haitian commercial convention would be entirely futile.

M. Léger, the Haitian Secretary for Foreign Relations, has asked me several times recently whether anything had been heard on this subject, which is still engaging his particular interest. The Department will recall that it has been the Foreign Minister's constant wish to see commercial relations with France resumed, and he, as well as many of the coffee exporters, feel that the French coffee market is still necessary to Haitian economy. I have the impression that M. Léger has never himself been averse to an arrangement with the 1910 bondholders which would permit the commercial question to be solved.

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<sup>36</sup> Not printed.

As the Minister for Foreign Affairs has asked me recently what if any further help he might expect from the Department in the above regard I feel that shortly I must give him some sort of a reply. I might observe here that M. Léger is under no illusions concerning the matter and understands that the only way that France can be brought to a reasonable trade agreement with Haiti is to try "pressure" from the United States unless Haiti is willing to concede to French wishes regarding the 1910 bondholders. In the circumstances the matter boils down to this. Are we willing to help Haiti by exerting "pressure" on France and to protect Haiti from surrendering to French demands regarding the settlement of the 1910 loan—demands we consider unjust and against our interests—or, am I to tell M. Léger that we can do nothing further and so in effect hand over the Haitian Government to the tender mercies of France, most probably to the technical detriment of our 1922 bondholders and certainly to the weakening of our position vis-à-vis the Haitian Government.

I should greatly appreciate the Department's specific instruction on this matter.

Respectfully yours,

FERDINAND L. MAYER

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711.38/290 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, May 27, 1938—noon.

[Received 3:05 p. m.]

55. Recent conversation in Washington and my report (please see especially my despatch No. 172, May 24 <sup>87</sup>) have described the distressing economic situation here, the universal hope of assistance from the United States, the opportunity afforded us in this unprecedented pro-American atmosphere and finally the probability that failure on our part positively to implement the good neighbor policy will bring correspondingly sharp disillusionment which in turn will most likely either drive Haiti to alternative assistance and/or make us "the goat". Indeed President Vincent has so publicly and completely thrown himself upon the mercy of the United States for the relief of the present economic difficulties in Haiti and impliedly for the success of his own administration that it seems certain he must make us out responsible for any failure to turn the trick and for the political disturbances or chaos which would most probably result.

I telegraph this summary since there is a time element involved. This is because of the economic situation, slowly but surely growing worse as we enter the "dead season" with no usual backlog of a good

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<sup>87</sup> Not printed.

season and also because of the Haitian Government's desire to enact its budget legislation soon, entailing arrangements as early in June as possible for continuance of the moratorium on the amortization of the 1922 loan.<sup>38</sup> Once this second moratorium is arranged, private financial or economic assistance for Haiti becomes all the more difficult if not impossible for the time being.

Pro-French and pro-American sentiment within the Government play a part in this particular situation. The former undoubtedly looks with satisfaction upon the failure of the United States thus far to take advantage of the recent swing in sympathy here in our direction and hopes to capitalize this to French advantage. It is evident that every effort is being made by the Minister for Foreign Affairs to solve the French treaty difficulty in the near future. This could present France as the real friend of Haiti in her critical time whereas the United States and its much vaunted good neighbor policy failed to bring concrete benefits when most needed.

As I said recently in Washington, I believe that we are at a critical and psychological moment in our relations with Haiti when all the cards are in our favor. We have made great progress in public esteem here due to our wise and generous action under the good neighbor policy with respect to the withdrawal of the occupation and gradual elimination of financial control. However desirable and appreciated, this was negative, so to speak, from the local viewpoint. What the Haitians pray for, and expect with a rather childlike faith, and what the local situation requires, is positive remedial financial-economic action either by, or at the instance of our Government for the support of present conditions here. Haiti will always need the sort of help the successful members of a family should accord to the less privileged relations. It is in the working out of the manner of this assistance, in the form we can evolve for this concrete cooperation, that I feel will come the test of our good neighbor policy with respect to Haiti.

MAYER

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638.5131/193

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 186

PORT-AU-PRINCE, JUNE 4, 1938.

[Received June 8.]

SIR: I have the honor to refer to the third paragraph of my telegram No. 55 of May 27. This paragraph expresses the Legation's opinion that every effort is being made by the Minister for Foreign Affairs to solve the French treaty difficulty in the near future.

<sup>38</sup> See pp. 573 ff.



Mr. Pixley, the Acting Fiscal Representative, has been watching this matter closely and discussing the situation with the Minister of Foreign Affairs on numerous occasions. While Monsieur Léger has indicated to Mr. Pixley, as indeed he has to me from time to time recently, that progress is being made for a Franco-Haitian treaty, the Minister of Foreign Affairs has always said that there were certain details still to be arranged and that signature was not imminent although the two countries were in general agreement of the principles along the lines of previous drafts of the treaty.

Mr. Pixley has asked the Minister of Foreign Affairs and Finance for a clean copy of the present draft on which the two governments are working and was promised such a paper within a short time. This draft has not as yet been received. Meanwhile, the Minister of Foreign Affairs told Mr. Pixley quite emphatically that while the appeasement of the 1910 bondholders was a definite factor in arriving at a commercial treaty with France, and while it was true that there was discussion of ways and means of satisfying these bondholders by a surcharge on shipments of Haitian coffee to France, the Haitian Government had no intention of acting as "collecting agent" for the French Government for any such surcharge.

Mr. Pixley and I have assumed that the real stumbling block to a consummation of the treaty conditions remains in the arrangement for the French Foreign Office holders of the 1910 bonds, and that this obstacle might hold up the treaty for some time if not indefinitely for the future as has been the case in the past. Furthermore, the Minister for Foreign Affairs has always said that a signature of the treaty would await the return here of Mr. de Lens,<sup>39</sup> who has been in Paris on leave for the past seven months. (M. de Lens left Haiti on October 27, 1937). This morning, however, M. Léger told Mr. Pixley that the treaty might be signed in Paris, implying, Mr. Pixley thought, that the treaty was closer to completion than had hitherto been thought to be the case.

Respectfully yours,

FERDINAND L. MAYER

638.5131/196

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 191

PORT-AU-PRINCE, June 10, 1938.

[Received June 11.]

SIR: I have the honor to refer to my telegram No. 58, dated June 9, 2 p. m., 1938,<sup>40</sup> concerning the present status of negotiations for a Franco-Haitian commercial convention, and to report that the text of the draft convention transmitted to the Department with the Lega-

<sup>39</sup> Leon Adrien de Lens, French Minister in Haiti.

<sup>40</sup> Not printed.

tion's despatch No. 548, dated September 4, 1937,<sup>41</sup> is identical with that which it is now proposed by the Haitian Government to conclude. However, in a letter to the Acting Fiscal Representative under date of June 8, 1938, Minister of Finance Léger mentioned certain modifications which he has requested the Haitian Minister to Paris to propose to and urge upon the French Government. The Haitian representative is not, however, to refuse to sign should the French Government insist on the present text without modification.

. . . . .

The Department will observe that there is no reference in the draft convention to the 1910 question. I am informed by Minister Léger that the convention may be accompanied by an exchange of letters between the two governments in which France will request Haiti to agree, and Haiti will express a willingness to permit the levying of a surtax on Haitian coffee imported into France. This surtax would be collected in France and, it is understood, would go to the French bondholders, although this will not be so stated in any exchange of letters, M. Léger informs me. The letters will not, according to M. Léger, refer in any way to the 1910 affair.

From the rapid study which the Legation has thus far been able to make, the changes in the text of the convention proposed by M. Léger, as well as those in the lists, do not appear substantially to modify the document. It is therefore supposed that the attitude of the Department—barring the question of the 1910 settlement—will be substantially that indicated in its telegram No. 45, dated September 13, 6 [7] p. m., 1937.<sup>42</sup> I am convinced that M. Léger is well aware of this attitude, as well as with that contained in the Department's telegram No. 21, dated June 20, 2 p. m., 1935.<sup>43</sup>

I shall be pleased to be instructed what action, if any, the Department desires me to take in the premises. Should no objection be perceived to the convention, I shall be glad if I may be informed whether the Legation may state that it has no objection to the Acting Fiscal Representative's giving his formal approval to the measure.

Respectfully yours,

FERDINAND L. MAYER

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638.5131/196 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, June 15, 1938—7 p. m.

45. Your despatch no. 191 of June 10, last two paragraphs. You are correct in your understanding that Department's attitude towards

<sup>41</sup> Neither printed.

<sup>42</sup> *Foreign Relations*, 1937, vol. v, p. 590.

<sup>43</sup> *Ibid.*, 1935, vol. iv, p. 661.

a proposed Franco-Haitian commercial agreement remains substantially that set forth in Department's telegrams nos. 21 of June 30 [20], 2 p. m., 1935, and 45, September 13, 6 [7] p. m., 1937.

You are authorized to state that the Legation has no objection to the acting Fiscal Representative giving his accord to the proposed agreement, providing that as you have been given to understand by Léger, no reference is made in the proposed agreement or the accompanying exchange of notes to the 1910 loan.

HULL

638.5131/199

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 206

PORT-AU-PRINCE, June 20, 1938.

[Received June 25.]

SIR: I have the honor to refer to the Department's telegram No. 45, of June 15, 7 p. m., with regard to a proposed Franco-Haitian commercial agreement.

I communicated the substance of this telegram both to President Vincent and the Minister for Foreign Affairs. They assured me individually that there was no reference to the 1910 loan in the proposed Franco-Haitian commercial agreement nor would any such reference be made in the accompanying exchange of notes.

I have received a letter from the Fiscal Representative's office officially communicating to me the proposed agreement. This letter states as follows:

June 18, 1938.

"I am in receipt of a letter from the Secretary of State for Finance, submitting to this office a project of a commercial convention to be signed with France. I enclose a copy of this convention, its schedules, the letter of the Secretary of State for Finance and a study of the treaty made by Mr. T. J. Grant, Chief of Customs Control Section of this office.

There is no mention in this treaty of the 1910 loan question and I am assured by the Secretary of State for Finance and Foreign Relations that no mention of this question is to be made in this treaty. He did tell me, however, that there is to be some sort of a supplementary agreement with France which will permit a surtax on Haitian coffee of twenty-two francs per one hundred kilos, and that the French government presumably will use these funds to offer some kind of satisfaction to the 1910 bondholders. However, there is to be no mention of the 1910 loan in any supplementary agreement which may be signed.

The loss in revenue will be slightly greater than that shown in Mr. Grant's memorandum, inasmuch as under the provisions of Article V internal taxes will not be applicable to wines and liquors imported from France. Loss of revenue from this source probably will amount to another thirty or forty thousand gourdes per year.

I have suggested informally to Mr. Leger, and expect to repeat in my letter, that Haiti not agree to purchase a definite number of coffee bags in France each year. I happen to know that at the present time a study is being made which may result in the installation of a bag factory for use of our short fibre sisal from the south of the island. At present there is little sale for this sisal. If it could be used to make bags, a market would be more or less assured to these people. I do not intend to make this change a condition precedent to my approval, but only to ask that an effort be made to eliminate the provision under this article of the convention.

For the reasons outlined in our several conversations on this subject, I believe I should give my accord to this treaty. Before doing so, however, I should like to be informed as to whether or not you perceive any objection to this action."

The Legation is replying to the Fiscal Representative's office as follows:

June 20, 1938.

"I have for acknowledgment your letter dated June 18, 1938, stating that you have received a letter from the Secretary of State for Finance transmitting a project for a Haitian-French commercial convention. You state that there is no mention in the proposed convention of the question of the 1910 loan, nor will such mention be made in a supplementary agreement which will permit France to levy a surtax of Frs. 22.00 per 100 kilos on Haitian coffee imported into that country.

A memorandum accompanying your communication estimates the loss of customs revenue to Haiti at approximately Gdes. 40,000 per year, but you state that the loss of internal revenue on wines and liquors imported into Haiti from France will increase this amount by another Gdes. 30,000-40,000.

You state further that you believe you should give your accord to the proposed convention and, following the several conversations we have had on this subject, inquire whether the Legation perceives any objection to your granting this approval.

In reply, please be advised that, inasmuch as the loss of revenue to Haiti will, in all probability, be more than compensated by the opening of the French market to Haitian coffee, and since no reference is to be made in the convention or in any supplementary agreement which accompanies or is annexed to it of the 1910 loan question, the Legation perceives no objection to your granting your approval to the project."

I understand from the Minister for Foreign Relations that it is still his expectation that the agreement will be signed before the end of the month.

Respectfully yours,

Ferdinand L. Mayer

638.5131/203

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 212

PORT-AU-PRINCE, June 24, 1938.

[Received July 6.]

SIR: I have the honor to refer to my despatch No. 206 of June 20, on the subject of the Franco-Haitian Commercial Agreement. Yesterday a new angle to this matter arose in connection with the question of the deposit of the monies for the reimbursement to the 1910 bondholders.

As I understand it, and as I believe the Department is informed, these monies have remained in New York at the National City Bank against which payment has been made through request of the Banque Parisienne in Paris whenever a bond is presented for redemption. Now, according to the Minister for Foreign Affairs, the French Government appears to make it one of the conditions of the new Franco-Haitian commercial convention that these monies should be transferred from the National City Bank to the Banque Parisienne in Paris. Mr. Pixley, to whom along with myself M. Léger has communicated this statement, feels that this effort on the part of the French Government to have the redemption fund deposited in Paris would not only be most unwise for the Haitian Government, but subject the fund to such pressure in behalf of these 1910 bondholders who are trying to get extra payment on a gold basis that agreement on the part of the Haitian Government to the proposed transfer of the funds would operate disadvantageously for Haiti as well as for the 1922 bondholders. Mr. Pixley has in mind that the Banque Parisienne being in possession of the fund might be "forced" by French Government influence to pay several of the bondholders at the gold franc rate. This, according to Mr. Pixley, would dissipate the entire fund leaving nothing to pay the rest of the 1910 bondholders. Further "squeeze" would result both actually and metaphorically to the end that Haiti's assets would be diminished by that much to the detriment of the 1922 bondholders. In other words Mr. Pixley is rather suspicious that this new move on the part of the French Government is another flank attack on the 1910 bondholders gold franc payment question and should therefore be prevented. As a matter of fact, the Minister of Foreign Affairs and Finance expressed himself in no uncertain terms to me the other day on this subject, feeling that the French were trying at the last moment to strike an extremely hard bargain both in this relation and in respect to certain other details.

In my conversations with Mr. Pixley on this subject I have kept continually in mind and repeated to him the Department's telegram No. 45, June 15, 7 p. m. Mr. Pixley is fully aware of this and in entire agreement he has adopted the same position repeatedly with M. Léger and has communicated to him the following letter which he prepared in collaboration with the Legation.

Translation.

"June 20, 1938.

"Mr. Secretary of State for Finances,

"I have in my possession your letter of June 8, 1938 concerning the project of the Franco-Haitian commercial convention. I note that you have proposed various [modifications?] in this convention, but that these modifications are not considered by you as essential, and that if the French Government refuses to sign unless the original text be accepted you propose to accept this text. These modifications seem very desirable and I hope that you will be able to obtain their acceptance.

"I would add to the projected modifications in the Accord suggesting that Article 10 be eliminated or modified in a manner so that it would become inoperative if sacks come to be made in Haiti with sisal. I am informed officially by a firm established in Haiti that it is carefully considering establishment of a sack factory which would use short fibered native sisal. The information has been given me confidentially but I think that it should be divulged inasmuch as in the Accord it is intended to purchase 200,000 sacks a year in France.

"In discussing this matter with you I believe I understand that no mention is to be made in the Convention or any subsequent Accord of the question of the loan of 1910. If this is the case in the subject of your letter, I take pleasure in informing you that I give my accord to this Convention.

"Agree Mr. Secretary of State, to the assurance of my distinguished consideration,

Deputy Fiscal Representative."

According to the Minister of Foreign Affairs, on the 22nd instant, the Convention was to be signed that day. It, of course, makes no mention of the 1910 loan question nor of this matter of the deposit of the redemption fund, as this was to be handled we learned, in a supplementary arrangement. The object of Mr. Pixley's latest representation, as contained in his letter to the Minister of Foreign Affairs and Finance, quoted above, is to take every precaution that the Department's instruction No. 45 will be carried out, and that in any supplementary arrangement in connection therewith no mention will be made of the 1910 loan which would appear necessary if the redemption fund is to be handed over to the Banque Parisienne as a part of the price of the new Franco-Haitian Commercial Convention.

Respectfully yours,

FERDINAND L. MAYER

638.5131/201

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 214

PORT-AU-PRINCE, June 25, 1938.

[Received June 28.]

SIR: I have the honor to refer to my despatch No. 206 of June 20, 1938, concerning the proposed Franco-Haitian Commercial Convention, and to report that the local press this morning states that the Convention was signed yesterday at Paris.<sup>44</sup>

The Legation has no indication that the Convention is other than that which has already received the Department's approval. M. Leger has repeatedly informed Mr. Pixley and me that neither the convention nor the accompanying exchange of notes will mention the 1910 question. There can be no doubt but that M. Leger's undertaking on this point is quite clear, and has been thoroughly understood by him.

On the other hand, the Legation already perceives that there is considerable confusion—if not mystery—surrounding the contents of the accompanying notes which are to be exchanged. According to M. Leger, the text of these notes has not yet been drafted. He has informed Mr. Pixley that M. Chatelain, the Haitian Minister to Paris, has been most uncommunicative regarding the notes, and that in spite of repeated requests for information as to the course of the negotiations, neither M. Leger nor President Vincent has been able to obtain satisfaction. M. Leger has informed Mr. Pixley that he expects to recall M. Chatelain in the near future as a result of this ambiguity.

However, the Legation observes out of the cloud which appears to surround this matter two facts which are not entirely reassuring. First, M. Leger has appeared to Mr. Pixley as somewhat embarrassed over the Department's approval of the convention and the notes "providing no mention of the 1910 matter is made". Leger has informed Mr. Pixley that he may have to write him with a view to having the wording of this approval slightly changed. M. Leger contends, however, that he has taken no obligation with respect to the 1910 question.

On the other hand, and second, M. Leger has informed Pixley that among the subjects which have been under negotiation is the transfer to the Union Parisienne of the Frs. 23,000,000 now deposited in the National City Bank of New York (as Fiscal Agents for the 1922 loan) for the redemption of the 1910 bonds as they are presented for payment. Leger, it appears, has agreed to pay the 1910 bondholders 500 paper francs per bond, and the French have contended

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<sup>44</sup> For text signed June 24, 1938, see *Le Moniteur, Journal Officiel de la République d'Haiti*, July 11, 1938.

that in view of this commitment, the Frs. 23,000,000 should at once be transferred to Paris for the purpose.

From what the Legation learns, Leger was not at first opposed to this scheme. When Pixley discussed the plan with the Legation, however, various objections seemed evident. The deposit in Paris of this fund would at once subject it to the jurisdiction of French courts who might well pronounce the 1910 bonds payable in gold. The fund would serve to pay off, in such a case, about one tenth of the bonds that are outstanding, and the balance would be obligations of the Haitian Government for which no redemption funds would be available. Only the fact that this fund has always been in the United States, and not in France, has prevented this procedure thus far. Leger has now seen this point, according to Pixley, and is now in favor of transferring the fund only if suitable guarantees can be given that the fund will remain sacred. Leger has also expressed doubt to Chatelain that the National City Bank will transfer this fund inasmuch as they may contend that they are acting as trustees in the premises. If the interest of the French Government in this transfer is bona fide, and no attempt will be made to utilize the funds for the payment of bonds in gold, they still have the additional interest that not all of the outstanding bonds may be presented—a fact which would leave a small but considerable balance of the fund on hand after all the bonds that were presented had been redeemed at Frs. 500 each.

The above are the only points in dispute concerning which the Legation has information at present. Going on what has been our experience in the past, we have no hope that these are all the points in dispute between the two Governments, nor have we as yet any indication of what exactly will be contained in the exchange of notes. It is possible that M. Leger is also in the dark, but one is tempted rather to ascribe the confusion once again to the Foreign Secretary's francophile tendencies and the ineptitudes which have almost invariably accompanied his and Chatelain's dealings with the Quai d'Orsay.

Leger has informed me this morning, however, that he will not further consider the transfer of the redemption fund to France unless he can obtain the assurance of the French Government that it will not be attached by the bondholders. I remarked at the same time that I hoped the Haitian Government would take no action with respect to the rehabilitation of the 1910 gold controversy which would prevent the conclusion of the new public works project or later result in the project's cancellation.

My feeling is that our position has been made entirely clear. On the other hand, and to insure Haiti's fulfillment of its commitment not to mention the 1910 matter—and now that the convention has been



signed—I venture to suggest the possibility that the American Ambassador at Paris might be instructed to inform the French Foreign Office that we have approved the convention and the exchange of notes solely on the ground that the 1910 matter shall not be mentioned. I have no ground for hope that Leger or Chatelain have made this clear to the French.

Respectfully yours,

FERDINAND L. MAYER

P. S. Referring to the suggested action at Paris, at the top of this page, I would not of course wish to have this action taken until I have first had the opportunity of discussing the matter with the Haitian Government here. The suggestion is made, always having this previous discussion in view.

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838.51/3654a : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, July 8, 1938—7 p. m.

60. Please call on the Minister for Foreign Affairs and say that from the text of the Franco-Haitian commercial convention as published in the French *Journal Officiel* of June 26, a copy of which was sent you by air mail letter, it is clear that the financial clauses relating to the 1910 loan contrary to our expectations are embodied in a *Protocole de Signature* forming apparently an annexed document to the convention if not in fact an integral part thereof.

You should inform Leger that this Government has naturally been disappointed that despite assurances to the contrary, mention has been made of the 1910 loan claims in the *Protocole de Signature* and that this Government has been somewhat disturbed at the situation thus brought about, particularly since the financial clauses referred to stipulate the transfer to a bank in France where they apparently are subject to French jurisdiction of funds which this Government and the Haitian Government have always considered formed a just and full tender of settlement to the outstanding holders of the 1910 bonds. You may add in this connection that irrespective of the implied renunciation of this principle that the original tender was a just one, this Government notes that the new convention does not appear to contain any guarantees either to the effect that the funds to be transferred will not be impounded or even that the payment of 500 francs per bond plus the scrip for 26 dollars will constitute a definite and final settlement of the claims of the 1910 bondholders.

Furthermore, you may wish to call attention to the possible impairment by the operation envisaged of the position occupied by the 1922 loans whose issuance was originally made contingent on assurances

that full and equitable tender of settlement had been made for the outstanding bonds of the 1910 loan.

You may say in conclusion that this Government will be pleased to receive at an early date an indication from the Haitian Government as to the policy it intends to pursue with respect to the above observations.

HULL

838.51/3665

*The Chargé in Haiti (Finley) to the Secretary of State*

[Extracts]

No. 231

PORT-AU-PRINCE, July 13, 1938.

[Received July 14.]

SIR: I have the honor to refer to the Department's telegram No. 60, July 8, 7 p. m. (1938), concerning the recently concluded Franco-Haitian Commercial Convention and its annexed Protocol of Signature, and to transmit a copy of the *aide-mémoire* I left with Secretary for Foreign Affairs Léger on July 9, as well as a copy and translation of an *aide-mémoire* which he handed me on July 11, 1938, concerning this subject. My telegram No. 81 of July 9, 1 p. m.,<sup>45</sup> reported the conversation of July 9. The text of the Convention and Protocol as published in the French *Journal Officiel* on June 26, 1938, has been received under cover of a letter from Mr. Chapin.<sup>46</sup>

The Legation believes that M. Léger is truthful when he stated that he did not know, until after the convention had been signed, that it would be accompanied by any document so formal and so closely linked to the convention as the protocol of signature. As soon as he heard this, he recalled Chatelain. He then devoted all his energies to keeping the protocol secret.

Either the French would not listen to Chatelain—or Chatelain, angry at his recall, may have failed to carry out the instructions which were given him in this sense. The Quai d'Orsay may have wished to disturb Haitian-American negotiations for a public works contract. M. Léger and the French Government may still have some scheme in mind for the entry of French interests into the Haitian public works field. In any event, the protocol was published in Paris.

In spite of M. Léger's seeming embarrassment at the denouement, . . . his local position was not as bad as could have been expected.

<sup>45</sup> Not printed.

<sup>46</sup> Selden Chapin, of the Division of the American Republics.

He could point to the fact that almost simultaneously, he had been able to settle the French commercial question and obtain \$5,000,000 for Haiti from the United States. The Legation's feeling is that M. Léger believed he was playing a very astute game and that in spite of difficulties which have arisen or may arise, he has won the game.

It was inevitable, therefore, that M. Léger's *aide-mémoire* in reply to the observations of the Department (Department's telegram No. 60, July 8, 7 p. m.) would be casuistic and specious. I venture to think the Department will share our view that it is that.

First, it hardly seems that, in the protocol, the Haitian Government has only assumed the two obligations which M. Léger specifies; it would seem that in addition the Haitian Government has formally accepted the scheme whereby the proceeds of the surtax are to be distributed to the 1910 bondholders. The acceptance of such a scheme seems to us to imply that the Haitian Government recognizes that something is due the bondholders. It also seems evident that this can be and will be construed as a recognition of the 1910 gold claim.

The Legation does not venture to guess how serious this tacit admission of the 1910 claim may be, but it supposes that it will be of consequence to the 1922 bondholders as well as to the Export-Import Bank.

With regard to the provision in the protocol that the 1910 redemption fund be transferred from New York to Paris, it is supposed that appropriate steps can be taken to prevent this transfer—the more particularly since we are now assured by M. Léger that the transfer is not contemplated.

Mr. Léger's argument that no declaration of the final settlement of the 1910 matter could be included, and still satisfy the desires of the American Government, seems specious to a degree. Our desire was that the 1910 claim should not be recognized by Haiti. Haiti seems in the protocol to have done so, against our wishes. If the claim was to be recognized in spite of our objection, it would certainly have been desirable to have included a final declaration of clearance.

In view of this, there would seem to be no definite assurance that "legally and in fact, the 1910 matter has disappeared from the Haitian financial horizon", or that the French Government will not continue to support the 1910 holders as opportunity presents. Will not the holders who have already redeemed their bonds press for a share in the distribution of the surtax?

The Department may wish, in its reply, to take note of Léger's profession to me that the Fiscal Representative had no right under the 1933 Agreement<sup>47</sup> to grant or withhold his approval of the Convention

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<sup>47</sup> Signed August 7, 1933, *Foreign Relations*, 1933, vol. v, p. 755.

on any other grounds than the reduction in customs duties (see my telegram No. 81, July 9, 1 p. m.<sup>48</sup>).

The text of the new Convention was published in *Haiti-Journal* yesterday afternoon. M. Léger informed me that the protocol would not be published. It appears, however, that the contents of the protocol are substantially known here for in *Le Matin* of July 11 there appeared the following article:

[Here follows translation of article.]

With reference to the telephone conversation on July 12 between Mr. Duggan<sup>49</sup> and the Legation, Minister Lescot<sup>50</sup> was found almost immediately and agreed to return to Washington at once. He then went to the Palace to report his intention to President Vincent. It is believed that a long conversation between the President, M. Léger and M. Lescot ensued. Several hours later, M. Léger called on Mr. de la Rue.<sup>51</sup> According to the latter, M. Léger stated that he had tendered his resignation to the President. The President, however, stated that, through M. Lescot, he had given assurances to Mr. Welles that the 1910 matter would not be mentioned in the French Convention. The President, according also to the same source, felt that he was equally to blame with Léger, and begged Léger not to resign.

Meanwhile, the Haitian Legislature has been called into special session on July 25, 1938. According to newspaper comment, it will take up the revised budget and ratify the Franco-Haitian Commercial Convention. M. Léger informed de la Rue (according to the latter) that he had no intention of submitting the protocol for ratification. He had informed the French Government of this intention, and has thus far received no expression of objection.

Respectfully yours,

HAROLD D. FINLEY

[Enclosure 1]

*The American Legation to the Haitian Ministry for Foreign Affairs*

#### AIDE-MÉMOIRE

From the text of the Franco-Haitian Commercial Convention published in the French *Journal Officiel* of June 26, 1938, it is clear that the financial clauses relating to the 1910 loan controversy—contrary to the expectations of the United States—are embodied in a Protocol of Signature forming, apparently, an annexed document to the Convention if not, in fact, an integral part thereof.

<sup>48</sup> Not printed.

<sup>49</sup> Laurence Duggan, Chief of the Division of the American Republics.

<sup>50</sup> Elie Lescot, Haitian Minister to the United States.

<sup>51</sup> Sidney de la Rue, Fiscal Representative of Haiti.

The United States Government has been disappointed that, despite assurances to the contrary, mention has been made of the 1910 loan claims in the Protocol of Signature, and it has been somewhat disturbed at the situation thus brought about, particularly since the financial clauses referred to stipulate the transfer to a bank in France, where they are apparently subject to French jurisdiction, of funds which the United States Government and the Haitian Government have always considered formed a just and full tender of settlement to the outstanding holders of the 1910 bonds.

Irrespective of the implied renunciation of this principle that the original tender was a just one, the United States Government notes that the new convention does not appear to contain any guarantees either to the effect that the funds to be transferred will not be impounded or even that the payment of 500 francs per bond plus the scrip for \$26.00 will constitute a definite and final settlement of the claims of the 1910 bondholders.

Attention is also invited to the fact that the position occupied by the 1922 loans, whose issuance was originally made contingent on assurance that full and equitable tender of settlement had commenced for the outstanding bonds of the 1910 loan, may possibly be impaired by the operation envisaged.

The United States Government will be pleased to receive at an early date from the Haitian Government an indication as to the policy it intends to pursue with respect to the above observations.

PORT-AU-PRINCE, July 9, 1938.

[Enclosure 2—Translation]

*The Haitian Ministry for Foreign Affairs to the American Legation*

AIDE-MÉMOIRE

The Protocol of Signature published in the French *Journal Officiel* of June 26, 1938, charges the Haitian Government with two obligations:

(1) The agreement to accept, in spite of the terms of the Commercial Convention, the imposition of a surtax of 22 francs (which eventually may be raised to 24 francs) per quintal of Haitian coffee imported during a period of not to exceed 15 years.

(2) The engagement of the Haitian Government to transfer to the Banque de l'Union Parisienne the necessary funds to permit the reimbursement of the 1910 bonds in circulation at the rate of Frs. 500 per bond.

The other provisions of the Protocol interest only the French Government and the Banque de l'Union Parisienne.

The Haitian Government had not failed to inform the American Government of the arrangement in course of negotiation between the French Government and itself, relative to the surtax of Frs. 22., and had let it be understood very clearly that from all the evidence this arrangement will have to be consecrated by a written document of some sort, an exchange of letters, or otherwise.

Desirous of meeting the points of view of the American Government on this subject, the Haitian Government had given precise instructions to its Minister in Paris that in no case was there to be recognized or mentioned the gold claim produced by the French Government in the name of the bearers of the 1910.

The Haitian Government recognizes without difficulty—in regretting it—that there would have been more conformity in the assurances it had given if the arrangement in question had not been the object of so formal a document and one so intimately linked to the convention as the Protocol of Signature, but it hopes that the American Government will agree with it with respect to the happy results of the efforts exerted by the Haitian Government in order to give satisfaction to the Department of State in the essence of the matter because not only does no clause of the Protocol imply the recognition of the French gold thesis but also there is no specific allusion made to the existence of this claim.

In so far as concerns the obligation to transfer to the Banque de l'Union Parisienne the sums necessary to redeem the 1910 bonds at the rate of Frs. 500 per bond, at bottom no new obligation is assumed by the Haitian Government, and it is only the logical consequence of the decision to redeem the 1910 loan.

The American Government expresses its anxiety with regard to the subject of the possibility of seeing opposition practised with respect to the funds which might have been deposited in France by the bearers who might not be satisfied with the arrangement concluded between the French and Haitian Governments. The Haitian Government is happy to be able to give the necessary appeasements to the American Government. In fact, following *démarches* made to the French Government by the Haitian Minister at Paris, the French Government has indeed declared that it does not insist essentially on the material transfer of funds—that the remittance foreseen in paragraph 4 of the protocol may be considered theoretic; that it will suffice that the Banque de l'Union Parisienne is, if that is necessary, able to effect redemptions in mass, something that could be regulated by an agreement from bank to bank by means of the opening of a credit or otherwise. It therefore remains understood that the funds will not be transferred to France in advance of the redemption of the bonds. The Haitian Government, as soon as the publication of the Franco-Haitian commercial

convention in the *Moniteur* has occurred, will give precise instructions in this sense to the National City Bank.

The American Government notes that the Protocol of Signature contains no declaration that the arrangement arrived at constitutes a final liquidation of the claim of the holders of the 1910. The Haitian Government, in its desire to meet the views of the American Government, having refused in the course of the negotiations to take into consideration any explicit recognition of the existence of the claim of the 1910 holders, it was difficult to have included a declaration of the definitive liquidation of this controversy. However, legally and in fact, the arrangement makes the claim completely disappear—a claim, moreover, which was not annoying except in so far as it received the support of the French Government.

In so far as concerns the position of the holders of the loan of 1922, the Haitian Government thinks that far from being weakened by the arrangement mentioned in the Protocol, it has, on the contrary, been fortified. In fact, the menace which the claim of the 1910 holders constituted—supported by the French Government—disappears from the Haitian financial horizon. The American Government will understand that it would have been impossible indefinitely to resist the demand of the French Government to submit the controversy which existed between the two Governments with respect to the 1910 loan to an international jurisdiction; it is scarcely necessary to underline the expenses, the risks and the publicity which would have resulted from this procedure. This menace has definitively disappeared.

Moreover, this arrangement has permitted the conclusion of the Franco-Haitian convention whose tonic effect on coffee prices in Haiti has been immediate. Whatever enriches the Haitian national economy can only render more certain the guarantee of the holders of the 1922 loan.

PORT-AU-PRINCE, July 11, 1938.

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838.51/3665a

*The Department of State to the Haitian Legation*

MEMORANDUM

The Government of the United States can not but reiterate its disappointment that contrary to the informal assurances given the American Minister and the Acting Fiscal Representative, the 1910 loan question should have been embodied in a protocol of signature annexed to the Franco-Haitian Commercial Convention signed on June 24, 1938. In view of its responsibilities to the holders of the 1922

Haitian bonds, the Government would welcome definite assurances on the following points:

1. That the Haitian Government will not publish the Protocol in Haiti and will not submit it for ratification by the Haitian Parliament;

2. That the Haitian Government will obtain from the French Government written assurances that the fund envisaged in paragraph four of the Protocol will not be transferred from the National City Bank of New York to a bank under French jurisdiction except as may be necessary from time to time through an inter-bank operation to assure the reimbursement of the individual outstanding bonds of the 1910 loan when they may be presented for redemption to the Banque de l'Union Parisienne; and

3. That the Haitian Government will obtain from the French Government written assurances that the French Government will not support any further claim on the part of any present or former holders of bonds of the 1910 loan for payment beyond that envisaged in the protocol.

WASHINGTON, July 16, 1938.

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838.51/3682

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

WASHINGTON, July 23, 1938.

The Minister of Haiti called to see me this morning at his request. He brought with him for me to read a letter he had received from the Minister for Foreign Affairs and a letter from President Vincent. The latter was written in response to a personal letter from the Haitian Minister in which he had protested strongly against the attitude of the Léger brothers<sup>52</sup> in the negotiations with the French Government concerning the 1910 French bondholders. President Vincent stated that his whole policy was directed towards ever-increasingly close relations with the United States and somewhat naively added that Mr. Lescot need not fear that he was in any way under the influence of the Léger brothers. President Vincent reiterated his tremendous satisfaction with the contract with the J. G. White Company<sup>53</sup> and evidenced his pleasure that the engineers of the company were now in Port-au-Prince consulting with regard to the formulation of the three-year program. In a postscript the Pres-

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<sup>52</sup> Abel Léger, a former Minister for Foreign Affairs, had recently been appointed Minister in France to succeed Chatelain. The other brother, Georges Léger, was the Minister for Foreign Affairs.

<sup>53</sup> A contract of July 6, 1938, between the Haitian Government and the J. G. White Engineering Corporation of New York provided for the execution of a program of public works. The contract was published in *Le Moniteur, Journal Officiel de la République d'Haiti*, July 7, 1938. (838.51/3651, 3673.)



ident referred to the new incident with the Dominican Republic and stated that the body of the Dominican found across the Haitian border was that of Captain Anival Vallejo, a former Dominican army aviator who had been imprisoned by Trujillo in Nigua jail for three years because of alleged complicity in the Franco plot against Trujillo. President Vincent said that when the body was found by a Haitian official it was a "surprising coincidence" that right on the other side of the boundary there should have been a group of armed members of the Dominican army. President Vincent gave it clearly to be understood that Vallejo had been murdered by these members of the Dominican army and that the body had been taken across the Haitian frontier in order deliberately to create complications with Haiti.

The letter from Minister for Foreign Affairs Léger instructed Mr. Lescot to state that the Haitian Government would "probably" have no difficulty in complying with points Nos. 2 and 3 in the memorandum which I had given Mr. Lescot last week with regard to the 1910 bond protocol. Mr. Léger requested Mr. Lescot, however, to say that he would first have to consult the Haitian Minister in Paris with regard to these two points and finally said that with regard to point No. 1 it would be difficult for the Haitian Government to make any such commitment as that requested inasmuch as the secret protocol had been published in the official press in Paris and might consequently, without the desire of the Haitian Government, be reprinted in the Haitian press. I stated to the Haitian Minister that the request of this Department had been that the Haitian Government agree not to submit the protocol for ratification and for the Haitian Government not to publish the protocol. I said that it was quite clear that publication implied "official publication" and that naturally I hadn't asked the Haitian Government to censor the Haitian press but to refrain from giving the protocol official sanction by publishing it in the Haitian *Moniteur*. I also called the Minister's attention to the fact that Mr. Léger made no reference to a commitment to refrain from submitting the protocol for ratification and that Mr. Léger had merely said that the Haitian Government had no present intention of submitting it for ratification.

I expressed to Mr. Lescot the opinion that the matter was one of the utmost importance and that as he knew this Government had assured the purchasers of the 1922 bond issue that the Haitian Government, as a result of assurances given by the latter, would not pay the holders of the 1910 bonds more than the amount agreed upon at that time and that if the Haitian Government now once more opened that question the legitimate rights of the bondholders of the

1922 loan would be jeopardized and the Haitian Government would let itself in for claims which might reach astronomical proportions. The Minister expressed very vehemently his agreement with that point of view and said that unless his Government agreed to the request made by this Government he himself would see that the issue was fairly placed before the Haitian people so that they could see what prejudice had been done to their own rights and to the national credit of their Government.

I requested the Minister to inform his Government that in view of the seriousness of the questions raised, I would have to request that the reply of the Haitian Government to the memorandum handed him last week be sent to us in writing and that I trusted the assurances contained therein would comply fully with the requests made by the Government of the United States.

S[UMNER] W[ELLES]

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638.5131/209 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, July 25, 1938—noon.

[Received 2:16 p. m.]

90. President Vincent informs me that the French commercial convention will not be submitted for ratification to the special session of the Legislature which meets today. Léger stated that Chatelain, because of the British royal visit to Paris, had not been able to obtain an audience at the Quai d'Orsay last week but he expects he will be able to discuss the Department's suggestions on the 1910 matter today. In any event he hopes that he can obtain the agreement reference [*sic*] desired as soon as Abel Léger reaches Paris and De Kuli [*De Lens?*] returns here. The latter is expected early in August. Léger expressed himself as hoping that whatever clouds have surrounded this matter will then be dissipated. President Vincent expressed a similar view.

FINLEY

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638.5131/212

*The Chargé in Haiti (Finley) to the Secretary of State*

No. 259

PORT-AU-PRINCE, July 30, 1938.

[Received August 2.]

SIR: I have the honor to enclose a copy of a memorandum which has been given me by Mr. Sidney de la Rue, the Fiscal Representa-

tive, concerning a conversation which he had with Secretary of Foreign Affairs Georges Léger on July 29, 1938.

Respectfully yours,

HAROLD D. FINLEY

[Enclosure]

*Memorandum of Conversation, by the Fiscal Representative of Haiti  
(De la Rue)*

PORT-AU-PRINCE, July 29, 1938.

I had a long talk with Léger this morning. He told me that a note\* had been handed Lescot, presumably by Mr. Welles, which suggested that the Department would be very pleased if assurances could be given that three things had been arranged satisfactorily in connection with the Haitian-French commercial treaty and the various agreements surrounding it or corollary to it.

He mentioned these three things as follows: *one*, that the Protocol would not be published; *two*, that no effort would be made to insist upon any transfer of the trust fund held in New York for payment of the 1910 bonds; and *three*, that the French Government agreed that this arrangement of charging Haitian coffee Frs. 22.00 per 100 kilos and the issuance of a license therefor by the Syndicate of Havre, was recognized by the French Government as a final and full settlement of any possible claim in connection with the 1910 loan, at the same time not admitting that the Haitian Government recognized any claim, but had made this settlement, without recognition, as a means of restoring normal commercial relations, or words to that effect.

None of the above is intended to be very exact. I am repeating the conversation as nearly as I remember it.

Léger has asked me to repeat this conversation for the simple reason that he says he finds it embarrassing to make an explanation as Foreign Minister. Yet, at the same time, for fear of any misunderstanding, he would like to explain, viz:

In connection with the first point, regarding the publication of the Protocol, he told me that he never has received a report from Chatelain as to exactly how this thing got into its present shape, nor why there was a Protocol. As a result of this, while Chatelain was to leave Paris on the last day of August and Abel Léger was to be appointed Minister on that date, Léger and the President have decided to send Abel at once. He is sailing on the direct French boat which leaves here for France tomorrow. De Lens, the French Minister to Haiti, is arriving here tomorrow by airplane from New York. He has been in the States more than a month.

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\* Memorandum I think he called it. [Footnote in the original.]

Léger says he knows of no reason why he has to publish the Protocol or take any further action in connection with it. But the thing that has him alarmed is the absence of, or refusal to give, any report, on the part of Chatelain. Mr. Léger does not care to be in a position of signing a note without having precise information as to what already has been signed by the Haitian Minister in Paris. What definite engagements are in writing and which have been made by the Haitian Minister in Paris and which might, or might not have a bearing on this matter, Léger must know before he feels free to make a statement to the Department of the unqualified character which he feels the Department has every right to expect.

Regarding number two, the transfer of the money in New York to France, Léger tells me he has a telegram from Chatelain stating that this is regarded as purely theoretical and that no insistence is to be expected from French sources on this point. Léger said he has no doubt that this matter has been settled and that it will not cause the Haitian government embarrassment, as otherwise it might, because of course he knows now that he could not get the money released if he wanted to. He has requested Chatelain to obtain the assurance of the French government in this matter, in the form of a letter if, in fact, he had not obtained already such a letter when he telegraphed that the French government would not insist.

With reference to number three, viz: that the French government recognize this as a settlement which would eliminate the possibility of any further claim, he has likewise asked for a letter to this effect from the Minister in Paris. The matter rests in the same shape as the subjects above mentioned.

Léger says, to summarize the whole thing, that he has no precise information as to what took place in Paris, other than the publication of the treaty and the protocol in the French official gazette, and a dozen telegrams from Chatelain telling him that everything is all right. At present there is no French Minister in Port-au-Prince, and consequently, Léger has no one here with whom he can discuss these matters, as representing the French government.

Finally, he does not wish to have it thought that he is sidestepping, evading or unduly delaying, if he is unable to give Lescot immediately categorical answers, or to make them himself to the Legation. He assures me that he is doing everything in his power to answer satisfactorily every one of these matters; that he is embarrassed about it, but that he is taking every possible step to get clear of such embarrassment and to finish with this situation in a way which he hopes will be entirely satisfactory to all concerned.

As I said in the beginning, I am transmitting this message at Mr. Léger's request and on the understanding that he felt it was a perfectly

frank statement which he wished to have brought, unofficially, to your knowledge, pending his official replies to the Department which will be delayed for a few more days.

DE LA RUE

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838.51/3685 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, August 1, 1938—1 p. m.

[Received 2:10 p. m.]

97. Department's telegram No. 63, July 30, 9 p. m.<sup>55</sup> Leger has requested de la Rue to transmit the following message to the National City Bank (in bank code) :

"In order to clarify situation concerning redemption Republic Haiti 1910 loan bonuses [*bonds?*] which remain outstanding at present time please advise immediately by cable to Paris for Banque Union Parisienne that for any quantity still outstanding and unredeemed you guarantee reimbursement bonds of 1910 at the rate of 500 francs each. Confirm existing arrangement or make any new arrangement necessary from bank to bank to put Banque Union Parisienne in position to meet demand reimbursements upon presentation bonds without in any case making prior transfer of deposit to France."

De Lens<sup>56</sup> returned here yesterday. Leger stated that he will begin conversations with him with regard to the Department's three points tomorrow or next day. Abel Leger left for Paris direct yesterday.

FINLEY

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838.51/3687 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, August 2, 1938—1 p. m.

[Received 3 p. m.]

98. Leger states that he is informed by de Lens that the French Government to his knowledge considers the 1910 question settled, but in view of the clarity of the matter, he is unaware how his Government would react to a request that this be put in writing. He suggested to Leger that perhaps a statement made to the Department by the French Ambassador at Washington, if that was also agreeable to his Government, would satisfy the Department and Leger has accordingly instructed Lescot to inquire in this sense.

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<sup>55</sup> Not printed.

<sup>56</sup> Leon Adrien de Lens, the French Minister in Haiti, had left Port-au-Prince for a visit to France in October 1937.

Leger went on to say that no objection had been raised by the French Government to the non-publication here of the protocol but that he had thus far only discussed with de Lens points 2 and 3 in the Department's memorandum to Lescot.

FINLEY

838.51/3701 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, August 11, 1938—1 p. m.

[Received 3:05 p. m.]

104. Leger informs me that the French Minister called on him yesterday upon instructions from Paris and stated officially that the French Government must insist on the transfer of the 1910 redemption fund to Paris. On the one hand, they would give formal assurances that the money would not be attached or molested in any way and that, pending the presentation of the bonds, it would remain in the name of the Haitian Government. The Minister also stated officially that the French Government considered that the 1910 claim would then be settled and that it would not in future support any action by the bondholders. On the other hand the French Government while making this official statement to Haiti saw no reason for putting this statement in writing.

With reference to the transfer, Leger stated that he informed the American Government that the transfer would not be made only after Chatelain had received the most formal assurances from the French Minister of Foreign Affairs that a theoretical transfer of these funds was quite acceptable. He has now cabled Chatelain as follows (translation).

"French Legation has called upon me to transfer money deposit to French bank in accordance with protocol. Haitian Government following your telegram of June 28 has already given formal assurances to the American Government that transfer would be made only theoretically and the demand of the French Government creates a serious embarrassment for us. See immediately the Minister for Foreign Affairs and recall the verbal agreement of June 28 and explain the inextricable situation resulting from these new demands. Make it known that according to the arrangement of June 28 bearers may immediately obtain total amount for bonds presented for redemption. Cable immediately result of your representations. Leger."

Leger also stated that de Lens had advised him after he returned here that this theoretical transfer was quite satisfactory to his Government for he had been in Paris when that decision was reached. In response to Leger's question as to why this new attitude, de Lens stated that he could not discuss the matter further than to make known to Leger his instructions.

Leger said that, in reply, he expressed deep surprise and embarrassment and said that this brought this question to an impasse. The only thing he could recommend was that the French Ambassador in Washington have a talk with the Under Secretary on this subject. De Lens stated that he would so advise his Government.

FINLEY

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838.51/3704 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, August 12, 1938—1 p. m.

[Received 3:30 p. m.]

106. My telegram No. 104, August 11, 1 p. m. De la Rue informs me that Leger discussed the French matter with him this morning. Leger said he was almost helpless to combat this new exhibition of French intransigence. He might threaten to denounce the convention but he felt sure that France would immediately accept and the commercial relations between the two countries would be back in the *status quo ante*. He said that he felt sure a commercial accord with France even if, as seemed probable, no notable advantages to Haiti resulted, was politically important both for the President and for him personally.

Leger stated that the French Government was well aware of the American attitude on these questions, that it had taken its position in face of these known objections and that, save for such limited pressure as he could bring to bear, the affair was necessarily and chiefly one between France and the United States.

Since Leger had already asked de Lens to suggest that discussions be taken up in Washington, de la Rue advised Leger to instruct Lescot to see the Under Secretary at once. He also advised Leger to call me over and ask me to reinforce this. I have not yet been called.

Personally I feel that it would not be wise now to take any action that would bring about the charge in Haiti that we were responsible for the denunciation of the convention. The suspicion is just commencing to grow here that the French coffee market is not what it used to be, and that Haiti has gained little if anything by the convention. Until this becomes publicly obvious local reaction against us might be considerable. I also feel strongly that while these latest developments seem to be chargeable to renewed French dissimulation we should not lose sight of the fact that Leger at present is at bottom responsible for all these difficulties. I do not therefore entirely share his views that the affair is now necessarily and chiefly one between France and the United States.

FINLEY

838.51/3705 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, August 13, 1938—noon.  
[Received 4:20 p. m.]

107. My telegram No. 104, August 11, 1 p. m. Leger states he has received the following reply from Chatelain (translation).

"I reported to you in my cable of June 28 the opinion of Monsieur Delenda, Assistant Director of Commercial Relations, with whom I have been constantly in touch to renew the commercial convention. But it results from a conversation which I have just had with Massigli<sup>57</sup> and de la Baume<sup>58</sup> that this opinion is contested by the Ministry of Finance, the association of bearers and the Banque Union Parisienne who claim the transfer in conformity with the protocol. It is recognized that in this there is a great obstacle which it is incumbent on you to lift in the shortest possible delay in order to obtain the good execution of the convention because the funds which are in question are the property of the Haitian Government and have a predetermined purpose. They renew the assurance that the French Government will not tolerate any seizure on the funds thus transferred and they ask you to transmit this assurance to whoever has a right to know it who can also find out about it himself."

Léger stated that he expected to inform de Lens this morning that Chatelain had evidently been right in assuming that Delenda, with whom he had been dealing throughout the negotiations, spoke for the French Government when he stated that no actual transfer of the redemption fund need be made. Leger is also reminding de Lens that he informed both him (Leger) and President Vincent upon his return here that he knew for a fact that his Government was agreeable to the theoretic transfer.

Leger stated, also, that he expects very forceful opposition to be raised by the French if American merchandise similar in nature to that appearing on list C of the French convention is granted similar treatment. I am now convinced that he expects to endeavor to induce de la Rue to take the step which would grant our goods similar treatment. He will thus be in a position, should the French denounce the convention, to put the blame on the United States. Leger stated quite frankly that if the convention falls, the United States will certainly be blamed by local public opinion; that Lescot had talked rather freely before his departure for the United States on July 13 to the effect that the United States was furious with Leger for permitting the secret protocol. He said the fall of the convention would

<sup>57</sup> René Massigli, Director of Political and Commercial Affairs, French Ministry for Foreign Affairs.

<sup>58</sup> Renom de la Baume, Adjunct Director of Political and Commercial Affairs, French Ministry for Foreign Affairs.



be a blow to the Government as well, he thought, as to the regard in which the United States is now held here.

Following an inquiry from the Panama Railroad SS Company, I inquired informally from Leger whether the French were prepared now, as they had been in 1935, to consider that coffee shipped from Haiti to New York in American bottoms and there transferred into French would be considered under the documents accompanying the convention as having been shipped in French bottoms. Leger stated that they were not; that they said they were going to put adequate ship's boats into Port-au-Prince to take their share of coffee shipments. Apparently Leger has accepted this thesis on condition that an adequate number of ships come, and freight rates are no higher. Leger stated that he thought this was a matter concerning which the American Government might wish to protest. He believed that it was only after the intervention of the American Government in Paris in 1935 that the old ruling had been obtained. I shall appreciate instructions.

FINLEY

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838.51/3705 : Telegram

*The Secretary of State to the Chargé in Haiti (Finley)* <sup>59</sup>

WASHINGTON, August 15, 1938—7 p. m.

69. Your 107, August 13, noon. The Embassy in Paris has substantially confirmed <sup>60</sup> the French attitude towards the commercial agreement with Haiti and the 1910 loan as reported in your telegrams 104 of August 11, 1 p. m. and subsequent.

At Mr. Welles' request, the French Chargé d'Affaires <sup>61</sup> called Saturday morning and was given the views of this Government on the whole question. He was informed that this Government and the Haitian Government have always maintained that a full and just tender of settlement was offered to the 1910 bondholders in 1923, a tender which has been accepted by approximately half of the bondholders; that this Government feels that irrespective of the juridical aspects of the case, the whole structure of Haitian finance as built up with the assistance of this Government rests on the adequacy of that offer; that the French Government had given assurances in 1937 that the commercial agreement and the 1910 loan settlement would be divorced but that subsequently it appeared that the French Government was proceeding as if that divorce had not taken place; that despite the fore-

<sup>59</sup> Repeated for information to the Embassy in France as Department's telegram No. 561, August 15, 6 p. m.

<sup>60</sup> In telegram No. 1254, August 11, 4 p. m., not printed.

<sup>61</sup> Jacques Truelle.

going, this Government, desirous of seeing normal trade relations between Haiti and France, had not voiced its objections to the arrangements contained in the Protocol of Signature of the recently signed Franco-Haitian Commercial Convention.

The Chargé was informed, however, that this Government, in order to safeguard the rights of the bondholders of the 1922 loan, who had subscribed for that loan on the definite assurances of both this Government and the Haitian Government that a full and just tender of settlement had been made to the 1910 bondholders, had insisted that this Government give assurances which would confirm the 1922 bondholders in their position as holders of a first lien on Haitian revenues.

Specifically this Government had asked that the Haitian Government obtain written assurances from the French Government confirming: (1) the verbal arrangement subsequent to the Protocol of Signature that the funds envisaged in paragraph 4 thereof need not be transferred from the National City Bank in New York except as might be necessary to redeem individual bonds as presented; and (2) that the French Government will not support any further claim beyond that envisaged in the protocol on behalf of any 1910 bondholder.

Mr. Welles then expressed his surprise and concern at the attitude now assumed by the French Foreign Office and particularly at the statement attributed to de la Baume that "refusal now on the part of Haiti to live up to its obligation would give rise to a suspicion that there was some ulterior motive behind such refusal". Finally the Undersecretary outlined our real interest in the economic rehabilitation of Haiti as evidenced by the recent financial arrangement sponsored by the Export-Import Bank at a time of real crisis when it appeared that interests neither French nor American were actively endeavoring to bring Haiti under their influence.

The Chargé promised to bring the substance of the Undersecretary's remarks to the attention of his Government.

HULL

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838.51/3709 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, August 25, 1938—noon.

[Received 3 p. m.]

111. The French Minister to Haiti called on Leger this morning under instructions from his Government. He stated that formal assurances had been given the Haitian and American Governments that the 1910 redemption fund, when transferred to Paris, would not be attacked [*attached*]. The transfer of this fund was provided for in the protocol to the Franco-Haitian Commercial Convention. In

order to carry out this provision the French Government would expect the Haitian Government to transfer the fund to Paris by September 10th, failing which, consideration would be given to a suspension of the operation of the convention. Leger understood this as an ultimatum.

Leger stated that in reply he told De Lens that he felt the Haitian Government might not be willing to accept a suspension of the operation of the convention, for once such a practice were established, the French Government might hold the threat of suspension over the Haitian Government at any time when difficulties in the operation of the convention arose. He stated that he could not, of course, speak for the Haitian Government in this matter since he would have to obtain the authority of the President and the Cabinet. For him personally, however, he felt that suspension of the convention by the French would mean its denunciation by Haiti.

Off the record, Leger told me that De Lens had suggested to him informally that he might wish to demand that the National City Bank make the transfer. If the bank declined the fall of the convention might then be attributed directly to American Government. Leger said he told De Lens that he would not consider such a plan unless it were acceptable to the American Government.

Leger inquired very carefully what had been the results of the representations made by the Department to the French. I told him that except for a report of the nature of the representations made by the Under Secretary to Henry<sup>62</sup> I had received nothing. He asked particularly to have a report on whatever new results had occurred. I promised to so inform the Department.

Leger informed me yesterday that whereas ten or fifteen 1910 bonds had been presented for redemption monthly for a number of years not a single bond had been so presented since the date of the signature of the Franco-Haitian Commercial Treaty.

FINLEY

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838.51/3710 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, August 26, 1938—1 p. m.

[Received 2:25 p. m.]

113. My number 111, August 25, noon. De la Rue reports that Leger today indicated to him that President Vincent agrees that Haiti will be obliged to denounce the French convention in case France invokes its suspension. As the Legation has previously reported,

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<sup>62</sup> Apparently Jacques Truelle, French Chargé, is meant. Truelle had replaced Jules Henry as Counselor of the French Embassy.

Leger will almost certainly endeavor to place the onus of this affair on us. De la Rue understands that Leger may now write to the National City Bank inquiring whether it perceives objection to the transfer of the 1910 redemption fund to Paris. Leger will wish, of course, to use this reply (if it is suitable) to save his own face vis-à-vis Haitian public opinion.

It is suggested that perhaps the National City Bank might be warned of the possibility of this manoeuver and the implications involved.

FINLEY

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838.51/3710 : Telegram

*The Secretary of State to the Chargé in Haiti (Finley)*

WASHINGTON, August 29, 1938—7 p. m.

72. Telegrams 111 August 25, noon, and 113, August 26, 1 p. m. For your information only. In reply to the representation made by the Under Secretary, the French Government has informed this Government that in view of the agreement of the Haitian Government to the transfer of the 1910 redemption fund to Paris it will insist upon its transfer. Through the French Embassy here it has informed the Department that the fund when transferred will not be attached. The Department does not consider this oral statement in any sense as a "formal assurance", or in any way as modifying its objections to the transfer of the deposit.

The Department is now engaged in a study to ascertain the precise legal status of the redemption fund. The attorneys for the National City Bank are doing likewise. You will be informed promptly of the results of these studies.

HULL

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838.51/3716 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, August 30, 1938—11 a. m.

[Received 1:48 p. m.]

115. Department's instruction 72, August 29, 7 p. m. Leger sent for me this morning and inquired whether I had received any indication as to what the Department intends to do with reference to the discussions. He said he felt sure that if the Department desired to do so, it could bring enough pressure on France to save the convention. He personally believed it should be saved for he foresaw a certain psychological reaction in case it is terminated and that, even if all of Haiti's coffee could be sold elsewhere, he looked for a drop in prices

immediately French competition disappeared. He intimated that the President was very much more worried about this matter than he was because "the President is permanent and I am only temporary". The President he said would have to bear the brunt of the affair.

I said that I had no information as to the Department's intentions but would inform him as soon as anything had been received.

Leger expressed regret that Abel Leger, who has already arrived in France, will not be able to present his credentials and make his contacts in time to accomplish anything before September 10. He hesitated giving any instructions to Chatelain because he did not wish to have any action that he might take conflict with the Department's representations.

I gathered that Leger is considering tendering his resignation in case the French convention falls.

FINLEY

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838.51/3720 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, September 1, 1938—noon.

[Received 3 p. m.]

117. President Vincent sent for me this morning and let me read Lescot's despatch in which he reported that he had been officially informed by the Department that Haiti must decide for itself whether or not the 1910 redemption fund would be transferred to Paris. In case, however, that it was decided to transfer the fund, the United States would have to consider revamping its whole policy with respect to Haiti in the interests of the 1922 holders.

The President began by saying that there was now quite a good indication that the advantages obtained by Haiti in the Franco-Haitian convention were extremely limited. Exporters had reported to him that they were obtaining better coffee prices in New York; they had complained to him about the necessity of buying French sacks and also of shipping in French bottoms which came so infrequently to Haitian ports. In addition he could not understand the French attitude toward the transfer of the redemption fund and he could not help but believe that there was something behind the matter which did not meet the eye.

In any event, the President said that when it came to a question of going with France or with the United States there was simply no question in his mind. He recalled briefly the history of Haiti's financial and commercial relations with France; said that time after time the opportunity had been offered to France to take an interest in Haiti's prosperity and welfare; time after time they had failed

to use their opportunities. Haiti's relations with France had been a series of incidents in which France had taken advantage of Haiti's weakness; with France had been [*sic*] sought to benefit by taking advantage of Haiti's well known cultural sentiments for that country. He, the President, had a French culture and sympathy but he declined to let this sympathy influence what he knew were the practical needs of his country.

The United States on innumerable occasions had given practical examples of its fair—and often disinterested—attitude toward Haiti and its problems. He emphasized that he would not permit this French matter to disturb this relationship.

The President stated that Abel Leger had presented his letters of credence in Paris yesterday, and that he had cabled him to do what he possibly could to get the French to change their attitude. He hardly hoped for any success since even with the French they had remained quite intransigent.

Monsieur Vincent added that the only difficulty was the psychological effect which the denunciation of the convention might have here. He did not fear any reaction from the business element; the widely held sentiment for France which was evident on every side here would be hurt. He did not think, however, that the reaction would be very serious.

I asked the President whether his Government would feel obliged to make a public statement here of the reasons for the denunciation in case that came about. He said he supposed that a statement would have to be made explaining the matter but that he still had 9 days in which to think this over. He added that he had informed the French Minister here of the substance of his decision; that the French Minister had invited him to dinner on September 8 and that he was rather afraid this would turn out to be a somewhat dismal function.

FINLEY

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638.5131/231 : Telegram

*The Third Secretary of Legation in Haiti (Bacon) to the Secretary of State*

PORT-AU-PRINCE, September 9, 1938—1 p. m.

[Received 2 p. m.]

121. Leger informed me today that he intends next Tuesday to refuse a demand for restitution of custom duties made by an importer of American pharmaceutical products who claims most-favored-nation treatment for United States products intrinsically similar to French products imported under existing treaty with France. I pointed out that my Government had every reason to expect most-

favored-nation treatment. Leger said that although he expected a protest he could not act otherwise at present in view of continuing delicate Franco-Haitian negotiations. De la Rue expresses the opinion that Leger is acting without knowledge of President Vincent, and that refusal might be forestalled.

BACON

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838.51/3713 : Telegram

*The Secretary of State to the Chargé in Haiti (Finley)*

WASHINGTON, September 12, 1938—7 p. m.

75. Your 121, September 9, 1 p. m. Please take up this question immediately with the Foreign Minister and reiterate strongly that your Government expects that American products upon importation into Haiti will receive the same customs treatment as that accorded to intrinsically similar products imported from France. If Leger does not agree to extend such treatment, you are authorized in your discretion to take up the matter with President Vincent.

You may refer to the specific case on which Leger will make his decision tomorrow, provided you are satisfied that the pharmaceutical products in question are in fact intrinsically similar to French products included in Franco-Haitian treaty.

HULL

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838.51/3736 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, September 27, 1938—noon.

[Received 1 p. m.]

132. My despatch No. 295, September 23.<sup>63</sup> The Minister for Foreign Affairs has just given me the following telegram from Abel Léger, Paris.

(Translation) "Following your last cable describing new situation, I have conferred today with National City Bank and Foreign Office. Accord reached on following basis: Banque de L'Union to facilitate settlement will receive bonds and present them for reimbursement at Paris branch. Payment by the latter upon presentation."

The Minister for Foreign Affairs favors this arrangement as being in effect the method already existing.

I have discussed this with Pixley. We see no objections to the arrangement. I should appreciate a reply by cable.

MAYER

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<sup>63</sup> Not printed.

838.51/3736 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, September 28, 1938—4 p. m.

78. Your 132, September 27, 12 noon. You may inform the Minister for Foreign Affairs that while this Government still awaits formal assurances from the Haitian Government in reply to its memorandum handed to the Haitian Minister in Washington on July 16, covering the 1910 loan question, it is not prepared to interpose any objection at this point to the proposed Accord mentioned in your telegram under reference provided that in effect this proposed Accord does not alter the method already in existence which was based upon the Inter-Bank Agreement of 1923.

HULL

838.51/3740 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, October 10, 1938—1 p. m.

[Received 3 : 48 p. m.]

137. The Department's 75, September 12, 7 p. m. Change of Cabinet, absence of President Vincent in the country and especially the reluctance of the Haitian Government to deny the French Government's demand for "privileged treatment" for certain "specialties" have all tended to slow up the solution of this question. Meanwhile, I have kept pressing the new Minister of Foreign Affairs.<sup>64</sup> While declaring unequivocally our interest in the maintenance of most-favored-nation treatment in all its integrity as the basic principle of our trade agreement with Haiti and the whole trade agreement policy I have felt it wise to proceed carefully in the hope that the decision might shortly be in our favor without unduly embarrassing Haitian-French relations and possibly placing us in the position of having to take the blame for any cancellation of the new Franco-Haitian Treaty of Commerce should this eventuate.

In a number of recent informal discussions with the Minister of Foreign Affairs the latter has recognized the legal justness of our position and expressed the desire to give us complete satisfaction. He feels, however, embarrassed vis-à-vis the French after their having already been defeated in the attempt to get the transfer to Paris of the fund for the payment of the 1910 loan. There is also the question of the written assurances regarding the 1910 matter. In this regard I understand the Quai d'Orsay has told Abel Leger that they consider this request as evidencing our desire to bring about the cancellation of

<sup>64</sup> Leon Laleau.



the new Franco-Haitian Treaty of Commerce. I am inclined to believe that it would make it easier for the Haitian Government to fall in with our desires concerning the carrying out of the most-favored-nation clause and tend to avoid cancellation of French convention if you could authorize me to inform Laleatz [*Laleau*] substantially in the manner of the Department's 78, September 28, 4 p. m. saying that while we continued to desire formal assurances from the Haitian Government with regard to the 1910 question we do not propose to press this matter at the present time, *et cetera, et cetera*.

I continue to believe it is wise for us to proceed cautiously in all this affair. We have won out thus far in the related 1910 loan affair. While maintaining the basic principle involved it might be desirable to compromise somewhat on certain of the corollary aspects. I say this because I believe it would be against our interests to have to take the blame for the denunciation of the Franco-Haitian treaty if this can be reasonably avoided. From another angle I believe that it would be advantageous for us to have this treaty be in effect for the next year or two since the flow of Haitian trade seems setting strongly toward the United States with especial reference to coffee, that within the fairly near future and except for a few luxury articles, Haitian trade with France will be increasingly inconsequential and the question of the Franco-Haitian Treaty of Commerce relatively academic.

I am told that the Haitian Government is likewise to cite in support of privileged treatment for France in respect to certain specialty imports the fact that we also depart from our basic principles when it is to our advantage; for example, our recent wheat subsidy legislation. I should appreciate an answer I may give to the Haitian Government on this point if raised as well as the Department's general cabled instructions concerning the whole matter described above.

MAYER

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838.51/3740 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, October 12, 1938—1 p. m.

81. Your 137, October 10, 1 p. m., and the Minister's letter of October 7, 1938 to Duggan.<sup>65</sup> You may inform the Minister for Foreign Affairs that this Government is surprised and greatly disappointed at the continued delay on the part of the Haitian Government to extend to American goods similar in character to certain French goods covered in the Franco-Haitian Commercial Convention, the most-favored-nation treatment clearly set forth in our trade agreement with Haiti. You may add that not only is such most-favored-nation treatment the

<sup>65</sup> Latter not found in Department files.

basic principle of our whole commercial policy but that the hesitation of Haiti to honor its pledged word could not fail to have a most unfortunate repercussion should that fact become generally known to the public in this country and elsewhere in the Americas.

In the Department's opinion the fact that the 1910 loan settlement was included in a protocol of signature to the Franco-Haitian Convention regulating commerce between the two countries cannot alter this Government's contention previously set forth many times to both the Haitian Government and the French Government that these two matters are unrelated. It was partially with this end in view that this Government undertook conversations with the French Government during the past 2 years seeking to disassociate the two subjects and later expressed its disappointment that contrary to the verbal assurances of the then Haitian Minister for Foreign Affairs the 1910 loan agreement was mentioned in the Franco-Haitian Commercial Convention.

You may add that while this Government does not wish to embarrass unduly the Haitian Government at this time, it cannot help but express the opinion that had these last named assurances of the Haitian Government been honored in fact, the present difficult situation with regard to the Franco-Haitian Commercial Convention would not have arisen. You may say to the Haitian Minister for Foreign Affairs that while this Government continues to desire the formal assurances in reply to its memorandum of July 16, it feels that the more immediate issue is that of prompt extension of most-favored-nation treatment for American goods.

For your own information it may be added that this Government has no intention at this time of pressing a demand for the formal assurances with regard to the 1910 loan, provided that the more recent arrangement continues to work satisfactorily. However, the Department is doubtful of the wisdom of permitting the Haitian Government to gain the impression that it may with impunity disregard its previous reiterated though verbal assurances with regard to the 1910 loan.

HULL

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838.51/3742 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, October 14, 1938—1 p. m.

[Received 2:54 p. m.]

139. Department's telegram No. 81, October 12, 1 p. m. In carrying out the Department's instructions today, the Minister for Foreign Affairs informs me that the Haitian Government agrees to our Gov-

ernment's interpretation of our trade agreement, intends to honor its pledged word, make the necessary restitutions to American importers here, and extend to American imports of similar character to certain French goods covered in the Franco-Haitian Commercial Convention, the most-favored-nation treatment.

The Minister for Foreign Affairs said that he would take the necessary action toward this end on the morning of October 26 and would notify me that he had done so. The Haitian Government desires to wait until this date in view of the fact that the meeting scheduled to take place with the French Minister in connection with a regular discussion of the Franco-Haitian trade convention is set for October 25.

MAYER

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ENGAGEMENT OF UNITED STATES ARMY OFFICERS TO SERVE AS  
MILITARY ADVISERS TO THE GARDE D'HAITI

738.39/347

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 185

PORT-AU-PRINCE, JUNE 3, 1938.

[Received June 6.]

SIR: I have the honor to refer to my despatch No. 175 of May 28, 1938, concerning Haitian-Dominican relations.<sup>66</sup> President Vincent called me over to the Palace this morning to tell me, in great confidence, his suspicions concerning President Trujillo's aggressive designs against Haiti.

President Vincent spoke at some length very much in the same vein as the Minister for Foreign Affairs<sup>67</sup> had discussed the matter with me on May 28, expressing the hope that we would be willing to approve certain reasonable expenditures to renew the outworn armament of the Garde.

I told the President that of course it was a fact that the Garde was not armed in modern fashion, and this doubtless needed certain attention, and I felt certain the United States would understand and view this matter sympathetically in principle. Certain aspects of the situation, however, occurred to me and I felt certain he had himself already considered these. For example, if President Vincent's suspicions regarding Trujillo were well founded,—President Vincent had just said that Trujillo was certainly not a normal man—would not an increase in the armament of the Garde, be it ever so reasonable, excite such an abnormal mind, perhaps giving it just the pretext it wanted and the provocation it would assume for taking precipitate action against Haiti? Secondly, it was a very serious step to start

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<sup>66</sup> Despatch not printed; for correspondence on this subject, see pp. 178 ff.

<sup>67</sup> Georges Léger.

rearming, even from as low a scale as was now Haiti's position and even with the justification from every point of view. I continued by saying that my own recent experience in Europe, especially at Geneva, had convinced me how serious a step this was, since the country or countries against which you are trying to create a just defense will never let the matter rest there, but will cap your moderate rearmament with just that much more in their own case, leading to an endless chain of arms competition, the conclusion of which is either war or national bankruptcy or limitation of armament. I asked President Vincent whether he had considered the last alternative as the first to be sought, namely, had he tried to discuss with the Dominican Republic the question of an arms limitation or an arms equalization arrangement. In fact, the limitation of armament of the two countries is mentioned among the essential provisions of the Agreement signed by the Haitian and Dominican delegates in Washington on January 31 for the settlement of the so-called Haitian-Dominican affair. President Vincent said that he recognized the correctness of what I had been saying but that he felt certain it would be impossible to come to any arrangement of this sort with Trujillo, implying that he had already made an effort in this direction unsuccessfully, and believed that the only alternative was to modernize the Garde's armament. At this point President Vincent explained that new armament for the Garde was not only necessary from the point of view of possible Dominican aggression but also because the morale of the Garde and the internal policing of the country demanded this effort.

President Vincent said that he could scarcely feel that there could be any provocation in his desire to start modernizing the armament of the Garde and that he felt it very desirable, indeed necessary, to do something along this line in order at least to hold off an invasion for a few weeks until help could come to Haiti from the outside, as well as for the question of internal order alluded to above. I told President Vincent that naturally I would give most serious consideration to any detailed recommendation with regard to the armament necessities of the Garde which he might care to present to me for transmission to my Government.

I then saw the Minister for Foreign Affairs on another subject and he showed me a memorandum with respect to the modernization of the armament of the Garde and the Dominican threat which he had prepared for the President. M. Léger is furnishing me with a copy of this memorandum which I shall forward with a later despatch.

As a result of this memorandum, M. Léger said that the President had yesterday convoked himself, the Commandant of the Garde,<sup>68</sup> the Minister of the Interior<sup>69</sup> and, I believe, Major Armand, head of

<sup>68</sup> Colonel Andre.

<sup>69</sup> Christian Lanoue.

the Palace Guard, to discuss the Dominican situation. M. Léger said that he found the other members attending this meeting of exactly the same mind as himself, as they considered that the situation was a really serious one and required action on Haiti's part. In this relation, the conferees discussed the question of asking for a small commission of American military experts to come to Haiti and give the Government here the benefit of their advice concerning the Garde, et cetera. The Minister for Foreign Affairs said that he expected to make some concrete, formal suggestions to me in this regard in the next few days. In discussing this phase of the matter, M. Léger said they did not intend to ask for a commission to take over the command of the Garde but rather to have a check up on the Garde situation, now that it had been some years since they had started out on their own, an action which they all thought would be beneficial. I told M. Léger that I should be glad to receive any request he might care to make for the consideration of my Government. I was not in a position to say, of course, what the Department's attitude would be with regard to sending a military mission here. I felt confident, however, that should they fall in with any such initiative on the part of the Haitian Government it could only be in an advisory capacity and not in an executive one since, as the Minister for Foreign Affairs well knew, our policy was toward relinquishment of control in Haitian affairs rather than the contrary. M. Léger said that, of course, he understood this and felt certain that we had the same ideas in this respect.

In conclusion, the Minister for Foreign Affairs said that the President had decided, on his suggestion, to have a meeting of the same group, namely, the Minister for Foreign Affairs, the Minister of the Interior and members of the Garde, at least every two weeks and go over the Haitian-Dominican situation. M. Léger said the President felt this particularly desirable since, during his recent trip to Cape Haitian, the local Garde officers had communicated to him how uneasy they had all begun to feel again with regard to Trujillo's designs. I might add that, in a recent trip to Cape Haitian, Mr. Zetek, an American agricultural expert, reported the same thing to me.

As I believe I have indicated informally to the Department, I am rather opposed in principle to military missions, since they are frequently hard to handle and, unless the personnel are well chosen, can create great confusion and difficulty, being occasionally more trouble than they are worth. On the other hand, as I have also indicated to the Department, there may be certain situations when the contrary is the case and their presence in a foreign country is desirable. This would be true for Haiti in my opinion if we considered, as I do under the circumstances, that the presence of an American military mission in Haiti would be an indirect protection

for Haiti by preventing Trujillo from executing toward Haiti any of his quite possibly aggressive ideas. If this is the case, it might also be said correctly that the presence of a military mission here would be by way of being a certain real assurance against hostilities on this island which could only have most undesirable repercussions through Pan America and create a position of especial embarrassment for us. To the same end, the presence of an American military mission here would also indirectly act as a stabilizing factor in the internal political situation.

I shall comment further in the matter if and when the question of an American military mission should actually materialize.

Respectfully yours,

FERDINAND L. MAYER

838.20/10 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, June 11, 1938—2 p. m.

42. Your despatch no. 185, of June 3. The Department after due consideration authorizes you to continue in your discretion conversations with respect to an American Military Mission for the Garde d'Haiti. You may say that while the initiative must in any case come from the Haitian Government, this Government would be prepared to consider sympathetically any request that the Haitian Government might make for such a mission.

It is the Department's idea that any military mission to Haiti would, as you have said to Leger, serve in an advisory rather than an executive capacity, and that in all matters of policy it would subordinate itself to the Legation.

HULL

838.20/11 : Telegram

*The Minister in Haiti (Mayer) to the Secretary of State*

PORT-AU-PRINCE, June 13, 1938—3 p. m.

[Received 6:40 p. m.]

62. Department's telegram of June 11, 2 p. m. The Minister for Foreign Affairs, after consultation with the President, has requested me officially to inform you that the Haitian Government desires an American military mission for the Garde d'Haiti to act in an advisory

capacity. Details as to the number of officers, their qualifications, et cetera, will be communicated shortly.

In making this request Leger gave me a further confidential message from the Haitian Minister at Ciudad Trujillo<sup>70</sup> (see my despatch 185 of June 3) in substance as follows:

"Information in previous message (my despatch No. 185, June 3) again recently confirmed from a responsible source. . . . Alluding to Mussolini restoring Italian honor in Africa, Trujillo recalled that his country had submitted to Haitian occupation during a whole generation; shortly the President of the Dominican Republic will have to take his oath of office in Haitian Congress. A steamship recently brought bombs to Ciudad Trujillo from the United States. Ten thousand bayonets have been distributed in the Cibao. Unless instructed formally Abel Leger considered it unwise to mention the modernization of the armament of the Garde until the new weapons have arrived (this refers to a suggestion Georges Léger recently made to the Minister at Ciudad Trujillo that in order to prevent a misunderstanding the subject of modernization of armaments should be mentioned to Trujillo)."

My impression is that the prompt arrival of a military mission here is desired. I expect to communicate further details shortly. I venture to suggest that the Department advise me by telegraph of its decision.

MAYER

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838.20/11 : Telegram

*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, June 16, 1938—7 p. m.

46. Your 62, June 13, 3 p. m. You may inform the Minister for Foreign Affairs that this Government, after consideration of the official request of the Haitian Government for an American Military Mission to act in an advisory capacity with respect to the Garde d'Haiti is pleased to agree in principle to furnish such a mission.

For your strictly confidential information the Department is giving consideration to the question whether the members of this mission should be chosen from the Army or from the Marine Corps and would be pleased to receive any views that you may care to submit in this connection.

HULL

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<sup>70</sup> Abel Léger.

838.20/14

*The Minister in Haiti (Mayer) to the Secretary of State*

No. 208

PORT-AU-PRINCE, June 23, 1938.

[Received June 25.]

SIR: I have the honor to refer to my telegram No. 62 of June 13, 3 p. m., and the Department's No. 46 of June 16, 7 p. m., with regard to the furnishing by our Government of a military mission to Haiti to act in an advisory capacity with respect to the Garde d'Haiti.

The Minister for Foreign Affairs brought up this subject again yesterday. He explained that he and President Vincent had been considering the question of publicity with regard to this matter and had felt that it was desirable to have some preparation. President Vincent and M. Léger have in mind that it would be undesirable to announce the arrangement with regard to a military mission more or less simultaneously with the new public works operation. Knowing these people, as the Minister for Foreign Affairs said, he was afraid that if these two matters were announced together there might be some misunderstanding in public opinion to the effect that the "imposition" of a military mission was the price for the public works operations. In order to prevent any possibility of this, President Vincent believed it would be desirable to wait until the agreement had been signed for the public works matter and then, within a few days or a week thereafter, President Vincent would make a speech in which he would discuss the disorganization in the Garde, occasioned by the recent so-called Calixte plot,<sup>71</sup> and state the desirability of having military experts here for a general review of the Garde organization and its modernization, et cetera. In this way President Vincent felt that the question of a military mission would be properly attributed to the Garde situation rather than possibly, inaccurately and unfortunately, to a bargain with respect to the projected public works operation.

I believe this is a wise attitude on the part of the Haitian Government and is also desirable from our point of view. Haiti being the queer place it is, misunderstandings might arise, as the President indicated, if the question of a military mission is not handled carefully and in the manner indicated by President Vincent as desirable.

Incidentally, M. Léger volunteered the statement that there was no question of any change of heart on the part of the Haitian Govern-

<sup>71</sup> In December 1937 an unsuccessful attempt was made by a number of junior officers of the Haitian Garde to assassinate Major Durcé Armand, commander of the Palace Garde, and a fellow officer. Colonel D. P. Calixte, the former commandant of the Haitian Garde, was regarded as the instigator of the plot against Major Armand and of an alleged plot to seize control of the Government. He fled the country, but his nephew and 15 other officers were tried; the nephew was executed; 4 others were sentenced to death, and 12 were imprisoned. The death sentences were later commuted by the President to imprisonment. (838.00/3396, 3407, 3411, 3415, 3417.)



ment with regard to a military mission. On the contrary, the Minister for Foreign Affairs said they were increasingly anxious to have this mission and to have it at the earliest date practicable. In all the circumstances, I am inclined to believe that this is true.

The Minister for Foreign Affairs said that he understood that President Vincent intended to speak to me about this matter shortly. I may, therefore, have other details to report to the Department at an early date.

Respectfully yours,

FERDINAND L. MAYER

838.20/17 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, July 25, 1938—1 p. m.  
[Received 2:30 p. m.]

91. President Vincent informs me that he will not publicly propose the military mission until next week. The new budget which is being submitted to the Legislature on July 27 will make a small additional appropriation for the Garde and this may silence local criticism that the Government has not sufficiently provided for the maintenance of the efficiency of this institution. Thereafter he feels that it will be opportune to request the mission.

I believe that there is no intention to delay this matter arbitrarily but that the President wishes to have the local atmosphere right before he makes his plan public.

FINLEY

838.20/19 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, July 27, 1938—11 a. m.  
[Received 1:35 p. m.]

94. Leger sent for me this morning and said that the anxiety which the Haitian Government felt concerning the continued truculence of President Trujillo and the fear that some border incident might occur had convinced the President that he should ask for an American military mission without delay. The President expects to announce this intention on Garde Day, August 1, Leger will confirm this in a note to be dated August 2, the text of which he will show me in advance. He stated that his purpose in calling me in this morning was to give us notice of their intention so that the mission might come at the earliest possible date. He felt that an incident on the border might make it difficult from a political viewpoint both here and in the United States to send the mission.

Leger stated that they would invite in the first instance three officers. One would be asked to review the armaments of the Garde with a view to replenishing equipment within the limited means at Haiti's disposal. One would be asked to supervise the reopening of an officers school. They were now about thirty officers short as a result of the recent court martials and separations. One would be an adviser to the Commandant and would be asked to prepare plans, et cetera, for any emergencies that might be requested if their services were found necessary. For the moment, he thought three would be enough and the President wished particularly to avoid local criticism to the effect that the Americans had taken charge of Garde again.

With respect to the question as to whether the mission should be from the Marines or from the Army, Leger stated that this was a matter of complete indifference to the Haitian Government—that one would be as satisfactory as the other, and that he understood that questions of policy might lead us to prefer one over the other. The important thing was that the mission should come very soon.

FINLEY

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838.20/21 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, August 1, 1938—noon.

[Received 1:15 p. m.]

96. President Vincent in a speech to the Garde this morning informed them that the Government had made arrangements to have a small American military mission come to Haiti. Leger states he will give me a note tomorrow confirming the desire of the Haitian Government to receive this mission.

Reaction in the Garde is understood to be favorable for the most part. One or two officers are understood to have contrary views.

FINLEY

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838.20/22 : Telegram

*The Chargé in Haiti (Finley) to the Secretary of State*

PORT-AU-PRINCE, August 2, 1938—2 p. m.

[Received 4:20 p. m.]

99. In announcing to the Garde his decision to request an American military mission, President Vincent stated he was requesting two—not three—American officers. Leger today in handing me a note which likewise contained a request for two instead of three officers intimated that the President at the last moment had felt that it was more ad-

visible politically at this moment to request two than three. The President had nevertheless asked him to explain to me that the Haitian Government would ask for the third officer within two or three months since they were sure that three were needed. The first two were wanted as soon as possible.

The note containing the request (a copy of which will be transmitted the next air mail) states that the Haitian Government has decided to reopen the military school. The two officers requested would be asked to direct this school and at the same time to give the general staff technical advice "in all that concerns the betterment and the progress of the present organization of the Garde".

The note also inquires under what terms these officers will be furnished.

The President specifically stated in his speech to the Garde that he had requested American regular Army officers.

I would appreciate instructions as to what reply should be made.

FINLEY

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838.20/37

*The Chargé in Haiti (Bacon) to the Secretary of State*

No. 293

PORT-AU-PRINCE, September 16, 1938.

[Received September 19.]

SIR: I have the honor to inform the Department that Lieutenant Colonel Samuel J. Heidner and Captain Douglas B. Smith of the United States Military Mission arrived in Port-au-Prince by plane on September 16, 1938. They were met by Colonel André, Commandant of the Haitian Garde, and his Staff, and the Officers of this Legation.

President Vincent has requested to see these Officers as soon as possible, and I have arranged to take them to the Palace to introduce them to the President at 10 a. m., September 17.

Respectfully yours,

J. KENLY BACON

## HONDURAS

### RESERVATION BY HONDURAS OF CLAIM TO SOVEREIGNTY OVER SWAN ISLANDS DESCRIBED IN NAVY DEPARTMENT PUBLICATION AS UNDER THE DOMINION OF THE UNITED STATES<sup>1</sup>

811.0141 SW 2/172

*The Honduran Chargé (Cáceres) to the Secretary of State*

[Translation]

No. 85

WASHINGTON, October 4, 1938.

EXCELLENCY: My Government is advised that, on August 24 of the current year, the Navy Department of the United States announced, according to reports which appeared in newspapers of this city, that a meteorological station had been established on the islands known as Swan Islands, off the coast of Honduras, in the Caribbean Sea, the said station being manned by two Navy radio operators and a meteorologist of the respective United States office, and that, according to those same press reports, official statements say that the United States of America claim sovereignty over the said Swan Islands in accordance with an opinion rendered by the Department of Justice in 1925.<sup>2</sup>

In this connection, and before continuing, I beg Your Excellency to permit me to recall that on December 12, 1935 the undersigned, in the name and representation of his Government, had the honor to submit to Your Excellency a respectful but formal protest<sup>3</sup> because the said Swan Islands appeared in No. 130 of the *Central American Pilot*, Hydrographic Office, Navy Department, as belonging to the United States of America. In the said note of protest of that date I had the honor to express to Your Excellency, as I now have the same honor to do, again, in the name and representation of my Government, that Honduras as a Province under the Captaincy General of Guatemala, existing during the Spanish colonial régime, included the said Swan Islands; that, together with the same, as well as the other adjacent islands of the archipelago which they form, in the Atlantic, and included in the total area of the territory which has constituted it and

<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 750 ff.

<sup>2</sup> Letter from the Attorney General to the Secretary of State, June 24, 1925, *ibid.*, 1927, vol. II, p. 532.

<sup>3</sup> *Ibid.*, 1935, vol. iv, p. 750.

does constitute it, Honduras came to independence as a State of the Federal Republic of Central America, first, and as a sovereign republic subsequently, the said islands therefore forming part of the territory included under the sovereignty of Honduras. On this historical, geographical and juridical basis, it can be affirmed that the titles of dominion and possession of Honduras over the Swan Islands, as part of the territory composing it, descend from the time immemorial when Spain discovered and took possession of the said islands.

As Your Excellency knows, the said Swan Islands are situated, saving any omission [*salvando cualquier omisión*], at 17°24' north latitude and 83°56' longitude west of the Greenwich meridian, off the coast of Honduras in the Atlantic and form part of the archipelago of Honduras constituted by the Bay Islands, Misteriosa Island, Bajos Island, Viciosas Islands, and others.

The undersigned refrains from mentioning at present, reserving them for another occasion if it should be necessary, an uninterrupted series of acts of jurisdiction and sovereignty exercised over the said Swan Islands, first by Spain, which discovered them, then by the State of Honduras during the life of the Federal Republic of Central America, and finally, by the Republic of Honduras, as a free, sovereign and independent nation.

Furthermore, without wishing to abuse Your Excellency's attention, permit me to cite, among others, some data to explain and give a basis for the foregoing affirmations.

(a) It is fully known that the sovereignty of Spain over the territory of Honduras, in the Atlantic, began on August 17, 1502, when the immortal discoverer Christopher Columbus took possession of the land of Honduras in the name of the King and Queen of Spain, at Rio Tinto; that the said Swan Islands were discovered prior to the year 1520 by the Spaniards, being situated in the territorial sea of Honduras off Cape Camarón, near the Rio Tinto, therefore remaining, since 1502, under the dominion and possession of Spain like the other islands and possessions of the American continent which it discovered and colonized. (In 1574 those islands still had the name of San Millán which was given them when they were discovered.)

(b) The jurisdiction of the Province of Honduras was delimited by the King of Spain in the Royal Grant (*Cédula*) of August 23, 1745 and has not been changed subsequently, it being established in the said Grant that that jurisdiction embraces from where the Government of Yucatan terminates to Cape Gracias a Dios, and it is of record in official reports and descriptions of that period that the islands of San Millán or Santanilla, names which the said Swan Islands have borne, remain together with the islands of Guanaja, Roatán, Utila, and others, within the jurisdiction delimited to Honduras by the

above-mentioned Grant of August 23, 1745, with which territorial jurisdiction, definitively, Honduras came to independence. (On one of the maps contained in the book of Bryan Edward Squire, published in London in 1793, entitled "The History, Civil and Commercial, of the British Colonies in the West Indies", the Swan Islands are shown thus: Santanilla or Swan Islands.)

(c) On the map and report which the pilot Joaquin del Castillo sent to the President and Captain General of the Kingdom (*Reino*) in 1776, of the expedition which he made to the coast of Honduras in 1760, it is said that the Santanilla, as he calls the Swan Islands, are distant 38 leagues from Guanaja looking to the east northeast.

The map "The West Indies with the Gulf of Mexico and Caribbean Sea", published in June 1892 by the Hydrographic Office, Bureau of Navigation, Navy Department, Washington, D. C., places, like others, the Swan Islands in the territorial sea of Honduras. Also in the book *Central America and Mexico Pilot (East Coast)*, edition of 1920, published by the above-mentioned Hydrographic Office, it is declared that the Swan Islands are situated in the territorial sea of Honduras.

(d) By making reference to the public law of Honduras it would have to be reported that the first political constitution of the Federal Republic of Central America, dictated November 22, 1824, says in Article V: "The territory of the Republic is the same which was formerly included in the old kingdom (*Reino*) of Guatemala, with the exception of the Province of Chiapas;" and that the constitution of the State of Honduras, within the Federal Republic of Central America, decreed on December 11, 1825, provides that the territory of the State "includes all that belongs and has always belonged to the bishopric of Honduras" which is referred to in the Royal Grant of August 23, 1745, which delimits the jurisdiction of Honduras. The territory, therefore, which belonged, according to this Grant, to the province of Honduras in colonial times became the territory of the State of Honduras, when the independence of the Kingdom (*Reino*) of Guatemala was proclaimed, and that it afterwards was the territory of Honduras, as a Republic, when it separated from the Federation of Central America, on November 5, 1838. This is what we would call the *uti possidetis* of 1821, which includes and legitimates the territory with which Honduras began independent existence, and of which, naturally, the Swan Islands, in the Atlantic, form part.

(e) In connection with the foregoing points, Article IV of the first political constitution of the Republic of Honduras, decreed January 11, 1839, reads as follows: "The State of Honduras includes all the territory which in the time of the Spanish Government, was known by the name of Province, circumscribed by the following boundaries: on the west the state of Guatemala; on the south, southeast, and west

that of Salvador; on the south by Conchagua inlet in the Pacific Ocean; on the east, southeast and south the state of Nicaragua; on the east, northeast and north, the Atlantic Ocean; *and the islands adjacent to its coast in both oceans.*" The subsequent political constitutions of Honduras, such as those decreed on February 4, 1848, September 28, 1865, December 23, 1873, contain the same concept or expression of sovereignty over the Swan Islands, the said constitutional provision not having been annulled by any of the fundamental codes which the Republic of Honduras has since decreed.

(f) It would be proper to note, among other acts of jurisdiction, that in March 1861, military authorities from Trujillo sent a commission to reconnoiter the Santanilla Islands, then so called, now Swan Islands, they having been included also subsequently in the decree of the Government of Honduras reorganizing the Department of La Mosquitia, and in the concessions which from 1881 to 1888 were granted by the Government of Honduras to exploit phosphates or any other fertilizing substance existing on the islands, islets and keys of the Atlantic, among which were included, as has been said, the Swan Islands.

(g) It would not be alien to the subject of this exposition to point out that the treaties called the Clayton-Bulwer of 1850,<sup>4</sup> concluded between England and the United States, and Wyke-Cruz treaties of 1859,<sup>5</sup> between Honduras and England, recognize and confirm the sovereignty of Honduras over La Mosquitia, the Bay Islands, such as Roatán, Bonaca, Utila and the others which form the said archipelago, in which the said Swan Islands are included.

(h) I should not fail to mention that the acts of sovereignty and jurisdiction of Honduras over the said Swan Islands are reaffirmed by administrative provisions passed on the recording of land titles by the Government of Honduras in 1907, in execution of the award of His Majesty the King of Spain of December 23, 1906,<sup>6</sup> which set as the boundary between Honduras and Nicaragua the line which is delimited by the site of Teotecacinte according to the demarcation of 1720, the Rio Guineo or Namasli, to its juncture with the Poteca or Bodega, then the latter river to its entry into the Segovia or Coco and afterward the Rio Coco or Segovia to Cape Gracias a Dios, the Swan Islands thus remaining in Honduras, as is understood.

(i) For the purposes of this exposition it would be deemed proper to cite that, on May 27, 1921 the Honorable Chargé d'Affaires of the United States Government in Honduras, Mr. William Spencer, asked the Government of Honduras whether the report was true which his Government had received to the effect that the Governor

<sup>4</sup> Signed April 19, 1850, Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 5, p. 671.

<sup>5</sup> Signed November 28, 1859, *British and Foreign State Papers*, vol. XLIX, p. 13.

<sup>6</sup> *Ibid.*, vol. c, p. 1096.

of the Bay Islands, stationed at Bonaca, was on his way, on May 18, 1921, to the Swan Islands to take possession in the name of the Republic of Honduras and asked, if the said report was true, to be advised what idea of right the Government of Honduras maintained for such action.

The Minister of Foreign Relations replied that in fact the Government of Honduras had decided, as an administrative measure, to send a commission to the said islands, which, he was told: "form part of the territory included under the sovereignty of this Republic" (Honduras).

The foregoing data which prove, among many others which are omitted, the traditional sovereignty, dominion and jurisdiction of Honduras over her islands in the Atlantic Ocean, including the Swan Islands, are found duly amplified in the study which a special commission made on the Swan Islands in virtue of legislative decree of February 23, 1922.

(j) Finally, referring to the view made public that the United States bases its sovereignty over the said Swan Islands on an opinion of the Department of Justice issued in 1925, I would take the liberty to indicate, without desiring to abuse Your Excellency's recognized kindness, that the Secretary of the Navy expressed the opinion on February 8, 1918 (Op. 216)<sup>7</sup> that the United States had not acquired sovereignty of any nature over the said Swan Islands and that the law of August 19 [18], 1856, known as the Guano Island Act,<sup>8</sup> which is invoked by the Opinion of 1925, only refers to discoveries of deposits of guano on islands, rocks, promontories, or keys which "are not within lawful jurisdiction of any other Government, and are not occupied by the citizens of any other Government", wherefore, and in view of the facts noted above, the sovereignty of the United States could not be extended over the said Swan Islands.

In virtue of the above, and if the said Swan Islands form part, as they do form part, of the territory included under the sovereignty of Honduras, as is attested by history, geography, and public law of Honduras, in relation with the principles of international law, my Government has given me instructions to submit, as I do herewith, safeguarding the rights of dominion and possession of the Republic of Honduras over the said Swan Islands, a respectful but formal protest on the account of the official statements or declarations which have been made public, that the United States exercises sovereignty over the Swan Islands, and also, and chiefly, on account of there having been established thereon, since August 24 of this year, by acts of

<sup>7</sup> Reference is apparently to an opinion of the Attorney General to the Secretary of the Navy, 31 Op. Atty. Gen. 216.

<sup>8</sup> 11 Stat. 119.



the Navy Department, a meteorological station manned by employees of the said Department and of the Meteorological Office of this country.

In conclusion, permit me to cherish the hope that Your Excellency will be good enough to give to this protest, which is necessary and obligatory upon my Government by express mandates in the political constitution of the Republic, the proper and opportune consideration which it requires, not without invoking the conviction in advance that it will not in any way prejudice the cordial relations of friendship which always have existed between Your Excellency's illustrious Government and that of my country, especially in this hour when solidarity and reciprocal cooperation on the part of the peoples of America are becoming stronger and stronger, and when the principles of justice and right regulate, as can not be otherwise, the acts of their respective Governments.

I take [etc.]

JULIÁN R. CÁCERES

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811.0141SW2/172

*Memorandum of Conversation, by the Chief of the Division of the American Republics (Duggan)*

[WASHINGTON,] October 5, 1938.

Señor Caceres informed me that he had come to present to the Department a note reserving the rights of sovereignty which Honduras believes it has in the Swan Islands. The Chargé then handed to me the note attached hereto.<sup>9</sup>

I took occasion to assure the Chargé—and requested him to transmit this assurance to his Government—that this Government in establishing the meteorological station on Swan Islands was not endeavoring to present any *fait accompli* to the Honduran Government with respect to sovereignty over the Islands. I told him that this Government was committed to the peaceful settlement of any differences through the processes of negotiation, and that that was its desire with specific reference to the Swan Islands.

I informed Señor Caceres that since his last call, at which he had discussed this matter orally and informally, the Department had been making certain studies in the matter and that while I had not yet seen the results of these studies I was hopeful that within the not distant future this Government would be in a position to take up with the Honduran Government the question of sovereignty over the Swan Islands.

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<sup>9</sup> *Supra.*

ATTITUDE OF THE UNITED STATES TOWARD THE RENEWAL OF THE  
COMMERCIAL TREATY BETWEEN HONDURAS AND GERMANY

615.6231/19 : Telegram

*The Minister in Honduras (Erwin) to the Secretary of State*

TEGUCIGALPA, December 20, 1938—1 p. m.

[Received 4:31 p. m.]

37. Referring to the Legation's despatches Nos. 731 and 515 of July 17, 1937 and November 21, 1938 respectively.<sup>10</sup> The Foreign Minister informed me today that the German Government has made representations to the Honduran Government with respect to extending Honduras' commercial treaty with Germany<sup>11</sup> for one year. Treaty expires on December 21. The Government of Honduras is holding matter in abeyance until attitude of the United States Government is known. Please instruct.

ERWIN

615.6231/19 : Telegram

*The Acting Secretary of State to the Minister in Honduras (Erwin)*

WASHINGTON, December 23, 1938—6 p. m.

29. Your no. 37, December 20, 1 p. m. Please state to the Minister for Foreign Affairs informally that while this Government sincerely appreciates the courtesy of the Honduran Government in requesting an indication of our attitude on the question of the renewal of the commercial treaty between Honduras and Germany, it is not felt that the question is one on which this Government could appropriately express an opinion.

While the Department does not wish you to make any statement to the Foreign Minister which might be interpreted as intended to influence the decision of the Honduran Government, you are referred to instruction no. 40 of January 11, 1938<sup>12</sup> in which there was set forth for your information the policy of this Government with regard to the principle of bilateral trade balancing and the extension of the principle of most-favored-nation treatment.

WELLES

<sup>10</sup> Neither printed.

<sup>11</sup> Signed March 4, 1926, Martens, *Nouveau Recueil Général de Traités*, tome CXXII, p. 560.

<sup>12</sup> Not printed.

## MEXICO

### REPRESENTATIONS AGAINST FURTHER EXPROPRIATION BY THE MEXICAN GOVERNMENT OF LANDS OWNED BY AMERICAN CITIZENS UNTIL AUTHORIZATION FOR PAYMENT BE MADE AND EXCHANGE OF NOTES PROVIDING FOR THE SETTLEMENT OF CLAIMS ARISING THEREFROM<sup>1</sup>

812.52/2535

*Memorandum of Conversation, by the Chief of the Division of the American Republics (Duggan)*

[WASHINGTON,] December 14, 1937.

Participants: Mexican Ambassador<sup>2</sup>  
Mexican Minister of Finance, Dr. Suarez<sup>3</sup>  
Mr. Welles<sup>4</sup>  
Dr. Feis<sup>5</sup>  
Mr. Duggan

The Under Secretary stated that he would like to take advantage of the presence in Washington of the Minister of Finance to discuss certain of the problems which are impeding the fullest development of friendly relations between the United States and Mexico. He expressed the thought that the two Governments, since they were both desirous of strengthening the existing relations, should face frankly and fairly any problems that exist between them and endeavor to settle them promptly and on a satisfactory basis, lest with the passage of time these problems grow to become real issues confronting the two Governments.

Mr. Welles then stated his sympathy with the objectives of the agrarian program and his interest in learning from Ambassador Daniels from time to time that the administration of President Cárdenas had made enormous strides in its execution.

Mr. Welles then stated that the policy of expropriation of land and its distribution had, of course, affected many American citizens.

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<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1937, vol. v, pp. 602 ff. See also section entitled "Representations to the Mexican Government regarding the expropriation of oil properties of American companies without providing for adequate compensation," *post*, pp. 720 ff.

<sup>2</sup> Francisco Castillo Nájera.

<sup>3</sup> Eduardo Suarez.

<sup>4</sup> Sumner Welles, Under Secretary of State.

<sup>5</sup> Herbert Feis, Adviser on International Economic Affairs.

A majority of these citizens he thought likewise were sympathetic to the objectives of the agrarian policy but had become antagonistic to the Mexican Government because their land had been taken without real compensation. At this point Mr. Welles stated that the Department was well aware that some American citizens who had gone to Mexico during a previous era and had acquired land for practically nothing and were now faced with expropriation, were claiming fantastic sums for compensation. The Department had no intention of supporting such claims. On the other hand, there were many more citizens who had gone to Mexico in good faith, had purchased lands, had invested their savings and by their own labor and industry had added to the wealth of Mexico by tilling the soil, by installing irrigation works, by erecting processing plants, and by giving new employment to the agriculturists in the regions where their lands were situated. These citizens now saw their lands being expropriated without any effective compensation. Unable to make satisfactory arrangements by direct negotiations with the Mexican Government, these persons were now in increasing numbers appealing to this Government for protection and assistance. Not only were their appeals becoming more insistent but now they were being directed to members of Congress. Mr. Welles indicated that he realized that an airing of the situation in the Congress would not get compensation for American citizens. It would undoubtedly have the effect of seriously impairing the good relations now existing between the two countries. The Department has so far been able to persuade congressional leaders of the undesirability of a public airing of the situation. However, he did not know whether the leading congressmen would remain persuaded unless some measures were taken that would provide relief to the American citizens whose lands were being expropriated.

The Minister in reply gave a lengthy detailed exposition of the objectives of the agrarian reform. He likewise elaborated at some length on the determination of President Cárdenas to make agrarian reform a reality during his term of office. Mr. Welles took occasion, during a pause, to point out that as already indicated there was no difference of opinion between the two Governments with regard to the desirability of improving the lot of the Mexican agriculturists. The exact focus of the discussion was on the compensation of property expropriated which was due under the generally recognized principles of international law, which the Mexican Government espoused.

Dr. Suarez at first seemed inclined to attempt an elaborate defense of the right of Mexico to take property without compensation. It was pointed out to him, however, that while he might be able to cite

the opinion in support of that contention of one or two international lawyers to the contrary, it was the opinion of the overwhelming majority, supported by decisions of The Hague Court, that while any Government had the right to take property for the public weal it must pay the owners of that property adequate compensation. It was likewise pointed out to Dr. Suarez that from an economic point of view the expropriation of land without compensation had already produced such a lack of confidence that capital had fled Mexico and a currency crisis was now impending. It was further pointed out that for the development of Mexico along the lines which the Mexican Government itself desires vast sums of money would be necessary, sums far in excess of those that Mexico itself could provide. These sums would of course not be forthcoming if capital had no confidence in the security of its investment.

Dr. Suarez at the end of this conversation implicitly recognized the validity of the arguments advanced both under international law and from an economic point of view. He stated that he was giving study to the possibility of the issuance of agrarian bonds. This possibility is complicated by the fact that the Mexican Government would not wish to give bonds to the nationals of one country and not give them to the nationals of all the others, as well as to Mexican citizens. He said that the Agrarian Code<sup>6</sup> was estimated at around 700,000,000 pesos. He indicated that upon his return to Mexico he would give renewed thought and effort to finding ways and means of compensating American citizens for expropriated lands.

During the course of the discussion of the possibility of a bond issue, it was brought out that the interest of this Government is in real compensation for its citizens.

It was pointed out to the Minister that the American landowners who have taken up their difficulties with the local national officials of the Agrarian Department have found that the responsible officers are so occupied with a multitude of routine matters that it is often not possible for them to devote detailed attention to their specific cases. The result has been that many American landowners, particularly when they have believed that there have been irregularities in the administration of the Agrarian Code, have become unnecessarily antagonistic considering that their cases have not enjoyed the full consideration and review that they merit. While the Foreign Office when approached by the Embassy with regard to agrarian cases has always shown the fullest disposition to be helpful, nevertheless the press of other matters is such as to prevent extensive consideration being given to any particular case. The Minister was

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<sup>6</sup> Mexico, *Codigo Agrario de los Estados Unidos Mexicanos* (Mexico, 1934); translation in Eyles N. Simpson, *The Ejido, Mexico's Way Out* (Chapel Hill, 1937), pp. 757-808.

informed, therefore, that the appointment by the President of some person in his confidence and without other responsibilities to discuss with American landowners the application of the Agrarian Code in cases affecting their properties would be most favorably received by American landowners, as well as by this Government. Both the Ambassador and Dr. Suarez indicated that they saw merit in this idea, and Dr. Suarez stated that he would commend it to the consideration of his Government upon his return.

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812.52/2567

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 6029

MEXICO, January 24, 1938.

[Received January 31.]

SIR: I have the honor to refer to the Department's Telegram No. 15, of January 21st/6 p. m., 1938,<sup>7</sup> and to report that at the time of its receipt arrangements had already been made for an interview between Licenciado Beteta, Undersecretary for Foreign Affairs, Mr. Boal, Counselor of the Embassy, and Mr. Stocker, representative of the American landowners in the Yaqui Valley, to discuss Yaqui Valley projects. In connection therewith, there is enclosed herewith a Memorandum<sup>7</sup> of the conversation which took place on this subject on January 22, 1938.

Licenciado Beteta now proposes to take up with President Cárdenas as soon as he returns from Orizaba the question of how to adjust the water situation in order to fulfill the Mexican Government's commitments, and of the possible purchase of the areas of land in the Yaqui Valley which are to be given American landowners in compensation for land donated.

Licenciado Beteta, of course, was unable to say what the President's decision would be on either of these matters. He intended, however, to urge strongly upon him the advantages of following his suggestion, as outlined in the enclosed Memorandum on both. He is quite aware that the steps taken in the Yaqui Valley in regard to providing water to small properties of American landowners do not correspond to the commitments given in the Mexican Government's communications on the subject, and appears particularly anxious to solve these questions in accordance with their commitments. He realizes that the Mexican Government's offer of free irrigation to the landowners was on the understanding that it was on this basis that they were being allowed

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<sup>7</sup> Not printed.

only 100 hectares of irrigated land instead of 300 hectares of unirrigated land for which they could legally have made application, and that now in fact to deny them this free irrigation and yet hold to the position that they were only entitled to 100 hectares apiece of land as small properties would place the Mexican Government in a very unfavorable light.

I will report further to the Department on this subject as soon as Licenciado Beteta has apprised me of the outcome of his discussions with President Cárdenas.

There is also enclosed a copy<sup>8</sup> of a circular on the water question, which has been given to American landowners in the Yaqui Valley, the terms of which are obviously at variance with Licenciado Beteta's communication to me of October 29, 1937, enclosed to the Department with this Embassy's Despatch No. 5616 of November 2, 1937.<sup>9</sup>

I also enclose a copy of a letter addressed to Licenciado Beteta on January 24, 1938, by the Counselor of the Embassy, and copies of two memoranda delivered to him this morning by Mr. Boal.<sup>10</sup>

Respectfully yours,

JOSEPHUS DANIELS

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812.52/2571

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 6040

MEXICO, January 28, 1938.

[Received February 2.]

SIR: I have the honor to refer to this Embassy's Despatch No. 6029, of January 24, 1938, and to report that Mr. John D. Stocker, representing the American landowners in the Yaqui Valley, who has just left Mexico City to return to Ciudad Obregon, has informed me that in accordance with Mr. Beteta's communication of October 29, 1937, those landowners in the Yaqui Valley, who had prepared land for planting prior to October 30, 1937, have been paid for the preparation of this land.

It may be noted that this would appear to be the first compliance of the Mexican Government with its various commitments contained in its communications of October 29, 1937, and November 6, 1937.<sup>11</sup>

Further particulars will, I presume, be forwarded by the American Vice Consul at Guaymas.

Respectfully yours,

JOSEPHUS DANIELS

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<sup>8</sup> Not printed.

<sup>9</sup> *Foreign Relations*, 1937, vol. v, p. 624.

<sup>10</sup> None printed.

<sup>11</sup> *Foreign Relations*, 1937, vol. v, pp. 625 and 631.

S12.52/2671

*Statement for the Press by the Secretary of State*

[WASHINGTON,] March 30, 1938.

In response to inquiries at his Press Conference today the Secretary of State said:

"During the past few years the Mexican Government in pursuance of its national policy has expropriated and is continuing to expropriate the properties of citizens of other countries in Mexico and of its own citizens. Among these have been many hundreds of farms and other properties of American citizens. Many of our nationals have invested their savings in these properties, have undertaken improvements therein of various kinds and have been dependent upon them for their own livelihood. This Government has not undertaken and does not undertake to question the right of the Government of Mexico in the exercise of its sovereign power to expropriate properties within its jurisdiction. This Government has, however, on numerous occasions and in the most friendly manner pointed out to the Government of Mexico that in accordance with every principle of international law, of comity between nations and of equity, the properties of its nationals so expropriated are required to be paid for by compensation representing fair, assured and effective value to the nationals from whom these properties were taken. The recent expropriation by the Mexican Government of oil properties belonging to American citizens is therefore but one incident in a long series of incidents of this character and accordingly raises no new question. The subject now under consideration between the Government of the United States and the Government of Mexico is the matter of compensation for various properties of American citizens expropriated in the past few years. It is my very earnest hope that because of the very friendly relations existing between the two Governments a fair and equitable solution of this problem may soon be found by the Mexican Government."

S12.52/2691

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 6490

MEXICO, April 14, 1938.

[Received April 15.]

SIR: In compliance with your telegram No. 65 of April 12, 1938, 7 p. m.,<sup>12</sup> I telegraphed the Department last night (No. 115 of April 13, 7 p. m.<sup>13</sup>) that I had called at the Foreign Office to see General Hay,<sup>14</sup> who said he would make an appointment for me to see President Cárdenas as soon as he could do so. He later telephoned me that he had made an appointment for 1 p. m. on Thursday.

<sup>12</sup> *Post*, p. 747.<sup>13</sup> Not printed.<sup>14</sup> Eduardo Hay, Mexican Minister for Foreign Affairs.



I stressed upon General Hay, as I had often done before, the strong feeling of my Government that lands belonging to Americans should not be expropriated without adequate payment. He said that one of the troubles that had been like a lion in the path was that if his country paid Americans, the Mexicans would demand that they also be paid and that the amount for the large quantities of Mexican land would be so great that it would be impossible to raise enough money. "But", he went on to say, "there is such a spirit of patriotism on the part of the Mexican people in this emergency now that the Mexican claimants are voluntarily coming forward and saying to the Government that they would withdraw their claims." He said the instances of this character in Sonora and Torreon, which he related, would be followed all over the country, and, while it would take some little time, this renunciation of payment by Mexicans would become general and would be prompted by a desire to uphold the hands of their government. He added that this made it easier to pay for American property. He enlarged upon this thought and spoke in an enthusiastic way about how the Mexican people of all classes were standing by the President.

I will discuss again with Mr. Beteta, after I have seen the President, the agrarian claims matter about which he has talked to Mr. Bursley.<sup>15</sup> The last time I talked with Mr. Beteta he thought Mexico could arrange a payment of \$500,000 a year (independent of any silver purchasing policy) to our Government. Whatever payment we can secure should, I think, be made to our Government in lump sums and we should undertake to settle with our nationals as we did in the Special Claims<sup>16</sup> on which Mexico is paying \$500,000 a year.

Respectfully yours,

JOSEPHUS DANIELS

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812.52/2701 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 19, 1938—midnight.  
[Received April 20—12:40 a. m.]

139. Before delivering the memorandum<sup>17</sup> from the President today Beteta spoke very earnestly saying the President's desire and intention was to pay for lands expropriated in monthly payments beginning in June and paying as much as possible during his administration. He wished me to give him the figures of claims by Americans but I told

<sup>15</sup> Herbert S. Bursley, Second Secretary of Embassy.

<sup>16</sup> See Special Claims Convention, signed September 10, 1923, *Foreign Relations*, 1923, vol. II, p. 560.

<sup>17</sup> Memorandum from the Mexican Ministry for Foreign Affairs to the American Embassy, April 19, not printed.

him that we did not have the full tabulations. He also asked me if we could give him some of the cases we deemed the hardest because they were anxious to make extra efforts to meet such cases promptly. I could not do so feeling that it would not be wise to discriminate. Beteta's greatest emphasis in his talk was the desire of the President that the people of the United States would realize the sincere desire of his country to treat them justly and for the Mexican population to feel the same way toward the United States. "We know," he said, "that the officials of both Governments are friendly and seek friendly accord but if the rank and file of the people of both countries lacked the confidence in each other it would make difficulties for officials no matter how friendly they are."

Mr. Beteta recognized that the memorandum is not as concrete as the President desired but he said he wished my Government to know that President Cárdenas is sincere in his intention of meeting the desires of the United States in the fullest way possible. This was the burden of his conversation which I am transmitting along with the President's answer.

DANIELS

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812.52/2764a

*The Under Secretary of State (Welles) to the Mexican Ambassador  
(Castillo Nájera)*

WASHINGTON, May 9, 1938.

MY DEAR AMBASSADOR: In view of the situation which has arisen as a result of the expropriation by the Mexican Government of properties belonging to United States nationals located within the Republic of Mexico, and as a result of the exchange of views with regard thereto which has taken place between our two Governments, and of the assurances given by the Government of Mexico that it desired to offer compensation for these properties expropriated, I have expressed to Your Excellency in the course of the conversations I have had the pleasure of having with you since your recent return from Mexico City the very earnest hope of this Government that some concrete proposals for compensation might be advanced by the Government of Mexico at a very early date in amplification of the general proposals contained in the memorandum submitted to Ambassador Daniels on April 19.<sup>18</sup>

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<sup>18</sup> Not printed.

You have been good enough to inform me that your Government desired to offer such proposals and would probably be in a position to do so in the immediate future. May I take this opportunity of expressing again my very earnest hope that this step may be taken without further delay.

With regard to the question of compensation for the agrarian properties belonging to United States nationals expropriated by the Mexican Government, this Government would be very glad to receive the proposals as to compensation which your Government may be prepared to make.

With regard to the expropriation of the properties of American oil companies located within Mexico, I feel I should make it quite clear that this Government, as stated in its previous communications to the Mexican Government, is not proposing to act finally on behalf of these companies. In view of the fact, however, that it is advised that no negotiations are in progress at this time between the Government of Mexico and the American interests referred to, it will, without waiving any of their legal rights, be willing to receive any concrete proposal advanced by the Mexican Government which may indicate the precise manner in which the Government of Mexico proposes to make adequate and effective compensation to these companies for their properties expropriated, and to refer any proposal offered by the Mexican Government of the character indicated to these American interests for their consideration.

With regard to the question of the large group of unadjudicated American claims, composed of agrarian and other claims under the General Claims Convention,<sup>19</sup> it is also my earnest hope that the Mexican Government will authorize Doctor Roberto Córdova<sup>20</sup> to negotiate a settlement of these claims under the terms of the protocol of 1934<sup>21</sup> at a very early date.

I am sure that Your Excellency will agree with me when I express the belief that the very friendly relations existing between our two Governments will be strengthened, and the best interests of the peoples of our two countries will be advanced if an equitable solution of the problems above mentioned, satisfactory both to the Government of Mexico and to the American nationals concerned, may be found in the immediate future.

Believe me [etc.]

SUMNER WELLES

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<sup>19</sup> Signed September 8, 1923, *Foreign Relations*, 1923, vol. II, p. 555.

<sup>20</sup> Former Mexican Agent, General Claims Commission, and Legal Counsel of the Mexican Embassy from February 1938.

<sup>21</sup> Signed April 24, 1934, *Foreign Relations*, 1934, vol. V, p. 470.

812.52/2799 : Telegram

*The Vice Consul at Guaymas (Yepis) to the Secretary of State*

GUAYMAS, June 3, 1938—5 p. m.  
[Received June 4—2:09 a. m.]

Referring to my despatch No. 507, May 12.<sup>22</sup> Several Americans whose properties were provisionally affected by the agrarian petition of Campo Yaqui in the Yaqui Valley received notice in writing today that their properties would be definitely dotated to the agrarians next Sunday 5th instant in accordance with Presidential resolution of January 12, 1938. Americans involved request that strong protest be lodged with the Mexican Government against this action which they consider illegal and unconstitutional and point to the date of the resolution to show that the procedure was carried out in bad faith.

Embassy informed.

YEPIS

812.52/2800 : Telegram

*The Chargé in Mexico (Boal) to the Secretary of State*

MEXICO, June 4, 1938—1 p. m.  
[Received 5:17 p. m.]

246. Yepis' telegram June 3, 5 p. m., and my telephone conversation with Department. I have just seen General Hay and pointed out that American owners in Yaqui Valley are entitled to consideration of their legal rights under colonization contracts. Furthermore that Ambassador Castillo Nájera had taken certain propositions regarding the Yaqui Valley situation to Washington which I understood were under discussion. Accordingly reported action of the Mexican Government to give definitive dotations of Yaqui Valley lands tomorrow might appear in the nature of creating a *fait accompli* during negotiations. I suggested that it would be preferable to defer decision on any such action until it had been determined what arrangement could be reached between the two Governments regarding the Yaqui Valley situation. I pointed out that if the adjustment which had been contemplated by the Mexican Government of granting compensation for lands and immediately repurchasing them were to be carried out it would seem preferable that any definitive dotations should be made at the time of this action rather than before it.

General Hay said that he would immediately take up the matter in an effort to hold up the proposed dotations.

BOAL

<sup>22</sup> Not printed.

812.52/2799 : Telegram

*The Acting Secretary of State to the Chargé in Mexico (Boal)*

WASHINGTON, June 4, 1938—4 p. m.

110. Please take up matter referred to in telegram June 3, 5 p. m. from Guaymas, and if you consider situation warrants request that steps be taken to protect legal rights of American citizens concerned, referring to protection from agrarian affectation which should be afforded Yaqui Valley lands by colonization concession.

WELLES

812.52/2802 : Telegram

*The Vice Consul at Guaymas (Yepis) to the Secretary of State*

GUAYMAS, June 6, 1938—4 p. m.

[Received 10:05 p. m.]

Referring to my telegram of June 3, 5 p. m., I have been informed that the definite dotation of lands in the Yaqui that were to be made yesterday were postponed without giving reason for it.

Embassy informed.

YEPIS

812.52/2804 : Telegram

*The Chargé in Mexico (Boal) to the Secretary of State*

MEXICO, June 6, 1938—5 p. m.

[Received June 7—1:10 a. m.]

248. Yepis' telegram June 3, 5 p. m., and my 246, June 4, 1 p. m. General Hay told me yesterday that he had urgently requested no definitive dotations be made of American property in Yaqui Valley at this time. He said he had communicated at noon on June 4 with the Agrarian Department where he was told that nothing was known of any plan to make these dotations definitive and that he also communicated by telephone with Licenciado Beteta at San Luis Potosí asking him to take up the matter with the President and with Licenciado Gabino Vazquez, head of the Agrarian Department.

BOAL

812.52/2981

*The Under Secretary of State (Welles) to the Mexican Ambassador (Castillo Nájera)*

WASHINGTON, June 29, 1938.

MY DEAR MR. AMBASSADOR: I wish to thank you for your letter of May 26, 1938, setting forth the views of your Government with refer-

ence to the payment of compensation for the properties of American citizens which have been expropriated by the Mexican Government. I am deeply appreciative of your having taken the pains of going to Mexico City, in order personally to present to the President and explain to him my letter to you of May 9, 1938, to which your present letter is in reply.

In so far as concerns compensation for American-owned agrarian properties which have been expropriated, I have observed that your Government has in substance reiterated the proposal set forth in the memorandum handed to Ambassador Daniels on April 19 of this year.<sup>23</sup> I had hoped that your Government would have progressed in its studies to the point where it could present for the consideration of my Government a definite, practical and complete proposal for making compensation representing fair, assured and effective value to the American citizens whose agrarian properties have been expropriated.

The presentation of such a proposal would have been reassuring and welcome to my Government as tangible proof of the validity of the policy of the "good neighbor", which has guided the conduct of this Government since 1933. That policy implies a community of neighbors, in which all are conducting themselves on a common plane of mutual confidence and fair dealing. My Government has endeavored to hew strictly to the line of that policy, to respect its own obligations and to be neighborly in rendering assistance where it could do so. It is entitled to expect in return respect for the obligations due it under international law, which, of course, include respect for obligations due its citizens. Other Governments have recognized the inherently reciprocal character of the good neighbor policy and have formulated their policies accordingly. The Government of Mexico has for a long period of time, under its agrarian laws, taken over lands of American nationals and though provision was made in the General Claims Convention of 1923 and subsequent agreements, for the adjustment of agrarian claims up to August 30, 1927, no such adjustment has actually taken place. The valuations of the American properties expropriated since that date, principally those of small holders, with the exceptions hereinafter noted, amount already to \$10,132,388.39 in value according to the valuations of American owners, and no provision either for adjustment or for payment has yet been made. The well settled and universally recognized law of nations, while recognizing the right to expropriate, requires payment in cash or its equivalent at the time of taking. The right to take is thus dependent upon the willingness and the ability at that time to pay the appropriate compensation.

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<sup>23</sup> Not printed.

This Government believes it appropriate again to call attention to the inherent reciprocal character of the good neighbor policy. In making this observation, this Government believes that it has exhibited patience and forbearance, and has shown to the Mexican Government all possible indulgence, as well as many practical evidences of its continuing desire to cooperate on the most friendly basis. Yet it cannot adopt a policy of acquiescing in the expropriation by another Government of properties of American nationals in disregard of the principle that expropriation and satisfaction of the obligation to pay go hand in hand. To adopt such a course would not forward the good neighbor policy, which is universal in its application. On the contrary, it would inevitably destroy that policy, by impairing the integrity of the principles upon which it rests. I cannot help but believe that the Republic of Mexico fully shares these views, and so desires to cooperate in the maintenance of the good neighbor policy.

These considerations lead to the conclusion that no further expropriations of American-owned property may lawfully be made unless effective compensation is paid at the time of taking the property.

With respect to the expropriations which have already taken place, subsequent to August 30, 1927, and which, therefore, are not covered by the General Claims Convention, and supplementary agreements, I beg to make the following observations:

During the time that you have represented your Government as Ambassador in Washington, I have described to you on numerous occasions the very serious circumstances in which many American citizens find themselves as a result of the expropriation of their properties by the Mexican Government. The present plight of many of these American citizens arises from their failure to receive the effective compensation due them. It therefore has been heartening recently to have the renewed assurances of your Government's determination to honor its obligations, past and present, and likewise of your Government's willingness to negotiate through you an arrangement providing compensation for the expropriated American properties. In this spirit of mutual desire to find a solution for this long-standing problem, I am taking the liberty of laying before you certain suggestions which appear to offer the broad outlines of a settlement, and which I would appreciate your communicating to your Government.

First of all, the plan proposed hereinafter is concerned solely with property affectations of all kinds that have arisen subsequent to August 30, 1927. With respect to the claims that arose prior to that time, it is my Government's intention to proceed with respect to their settlement in accordance with the provisions of the General Claims Convention, as discussed below.

As a result of careful study of the data which have been compiled recently, including certain information kindly furnished by the Agrarian Department of your Government, it is estimated that since August 30, 1927 there has been expropriated by the Mexican Government, not including the petroleum properties and certain other exceptions hereinafter noted, \$10,132,388.39 of American-owned property. This estimate is exclusive of certain American properties regarding which it is understood settlements either have been made or are in process of negotiation. Should these negotiations fail to reach a satisfactory outcome, it would be necessary, of course, to include the value of the properties concerned in the above estimate. This estimate includes, however, the value of the Yaqui Valley properties which have not yet definitely been dotated.

There is attached hereto an itemized list <sup>24</sup> of the American properties that are comprised in the foregoing estimate. This list gives the name of the owner of the property, the name, if any, and location of the property, the number of hectares expropriated, and the value as estimated in each case by the owner. Although an effort has been made to include in this list all of the American properties expropriated since August 30, 1927 (with the exceptions before noted), the absence of certain data makes the list incomplete, and consequently the monthly payment hereinafter mentioned is subject to adjustment. From time to time, as these data become available, they will be furnished to the Mexican Government.

It is suggested that these data be examined and checked for accuracy and completeness by the appropriate agencies of the Mexican Government and supplemented with such additional data as the Mexican Government may consider necessary in order to arrive at an understanding regarding the amount of compensation due in each case. In as much as your Government is already far advanced in compiling data similar to that now submitted, it should be possible to arrive in the very near future at determinations of compensation due. As you know from our conversations my Government believes that both from the standpoint of justice and because of the great need of the majority of the owners, it is imperative that these determinations be made and that payments be started without further delay.

It is further suggested that the amount of compensation together with any subsidiary questions, such as the extent of the area expropriated, be determined by agreement between two commissioners, one appointed by the Government of Mexico, the other by the Government of the United States. In the unhoped for event of disagreement between the two commissioners regarding the amount of compensation due in any case, or of any other question necessary for a determination

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<sup>24</sup> Not printed.



of value, my Government suggests that these questions be decided by a sole arbitrator selected by the Permanent Commission at Washington provided for by the so-called Gondra Treaty, signed at Santiago May 3, 1923,<sup>25</sup> to which both our Governments are parties. In view of our common desire to advance a settlement of this matter, it is suggested that our Governments name at this time their respective Commissioners, and request the Permanent Commission to name concurrently the sole arbitrator.

I have noted that your Government has taken a first step towards providing compensation at least in part for the American-owned lands in the Yaqui Valley, by deciding to lay aside every month, beginning with the month of June 1938, the sum of 120,000 pesos. However, in as much as our two Governments are now engaged in an endeavor to arrive at some satisfactory solution of the problems arising from the expropriation of all American properties, my Government earnestly hopes that the Yaqui Valley lands will not be definitely dotated pending the outcome of the present discussions.

I have also noted that with regard to the other cases of expropriation distinct from those under consideration with respect to the Yaqui Valley, your Government is continuing to compile the data necessary to determine the amounts of compensation and consequently the amounts to be set aside for such payments. Following the lines of our conversations, my Government assumes that these latter amounts will be adequate to effect compensation for all American properties expropriated since 1927 prior to the expiration of the term of office of General Cárdenas. As I have already stated to you orally, my Government cannot admit of the application of any discriminatory principle in this matter, and therefore is unable to accept the differentiation suggested in your letter which was likewise contained in the memorandum of April 19 with reference to large properties or of any differentiation which gives one group of American citizens less satisfactory treatment than another group. Compensation on a basis of fair equality is required for all expropriated American property.

During the process previously outlined, which I am confident you agree should be expedited in every way, and as an indisputable part of the transaction of expropriation and compensation, my Government considers that your Government should set aside monthly for the next thirty months, subject to adjustment as hereafter indicated, the sum of \$337,746.27 to be deposited in escrow in some agreed upon depository, for the exclusive purpose of making compensation

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<sup>25</sup> *Foreign Relations*, 1923, vol. 1, p. 308; see also the General Convention of Inter-American Conciliation, signed at Washington, January 5, 1929, *ibid.*, 1929, vol. 1, p. 653, and the Additional Protocol to the General Convention of Inter-American Conciliation, signed at Montevideo, December 26, 1933, *ibid.*, 1933, vol. iv, p. 226.

for expropriated property as and when definite determinations of value have been arrived at in each case. Should the determinations of compensation show a reduction from the amounts now claimed, the monthly deposits would be scaled down accordingly. By setting aside these monthly amounts it would be possible to achieve what I understand to be the objective of President Cárdenas, namely, the payment of compensation to American citizens for their expropriated lands prior to the conclusion of his term of office.

With respect to the views presented by your Government in connection with the petroleum properties, I may state in advance of formal communication, that the general standards regarding compensation expressed earlier in this letter are equally applicable in that case.

With regard to the group of American claims under the General Claims Convention, the position of my Government is that it cannot properly abandon rights conferred on the United States Government, on behalf of its nationals, by the provisions of the General Claims Protocol of 1934. However, since your Government is disposed to discuss the matter of the settlement of the claims, the Department is willing to explore with you the possibilities of such a settlement, it being understood of course that by entering into such discussions this Government does not in any way compromise its position or attitude with respect to its rights under the Protocol of 1934 and that the sole purpose of such discussions would be to determine whether the general ideas of our two Governments are sufficiently close together to warrant any further steps.

At the same time the Department would be glad to be advised what minimum time the Mexican Government would feel it necessary to insist upon for the further discussion of the claims preparatory to the *en bloc* settlement contemplated by the Protocol of 1934.

I am pleased that Your Excellency agrees with me that by an equitable solution of the problems above mentioned, the bonds of friendship between our two countries will be strengthened, and it is hoped that such solutions may be found in the immediate future.

Believe me [etc.]

SUMNER WELLES

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812.52/2911

*Memorandum of Conversation, by the Chief of the Division of the American Republics (Duggan)*

[WASHINGTON,] June 30, 1938.

Mr. Stocker<sup>26</sup> went over with me the Yaqui Valley situation. He expressed appreciation for the efforts of the Department to withhold

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<sup>26</sup> John D. Stocker, representative of the American landowners in the Yaqui Valley.

definite dotation of the lands and asked whether the Department thought it would be able to have the lands restored to the American citizens there. I told Mr. Stocker that the whole question of procedure and compensation in connection with agrarian expropriations was now under discussion with the Mexican Government and I hoped that some formula would be evolved that would take care of the situation in a manner satisfactory to American landowners but that I was unable to give him any encouragement that the Yaqui Valley lands would be returned to their American owners.

Mr. Stocker corrected a misconception which I entertained based upon reports from both Mr. Yepis and the Embassy at Mexico City. I had understood not only that the lands had not been definitely doted but that they were still being worked by their American owners. Mr. Stocker informed me that the situation is as follows. The irrigated lands belonging to American citizens, with the exception of the *pequeñas propiedades*,<sup>27</sup> have been turned over to the former workmen who have constituted themselves into *ejidos*. He said that the lands were occupied just at the time of planting when they had been plowed, harrowed, and otherwise prepared. Nevertheless, on account of ignorance as to proper planting, the crop this year would be almost a total failure. Mr. Stocker said he thought it should be made very clear that the irrigated lands have been turned over to the former workmen of the farms there, many of whom came from other states, and that these persons were not, with a very few exceptions, Yaqui indians.

The lands on the right bank have been in the hands of the Yaqui indians for some time. It is on these lands that exist the indian pueblos, whereas there are not now, nor have there ever been, indian pueblos on the irrigated lands.

Recently, and despite the definite word in the *acuerdo* of last fall,<sup>28</sup> the Government has signified its intention of giving about 30,000 acres to the Yaqui indians south of the Yaqui River. These lands do not connect with the irrigated lands but are further west.

I asked Mr. Stocker how long it would be before the Government would complete the works for irrigating the new lands in the Yaqui Valley. Mr. Stocker thought that it would take several years, possibly even ten, since it would be necessary to go a long ways upstream in order to get the height necessary to carry the water to the new lands which are higher ground.

I asked Mr. Stocker whether the Americans in the Yaqui Valley would remain there to farm their small property or whether they

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<sup>27</sup> Small properties. Article 51 of the Agrarian Code provided that 150 hectares of irrigated land or 300 hectares of seasonal lands were to be inalienable or reserved to owners whose lands were to be expropriated.

<sup>28</sup> Presidential *Acuerdo* of October 27, 1937, *Foreign Relations*, 1937, vol. v, p. 622.

would leave. He thought that the younger people would probably leave since it would only be possible to eke out a very poor living on their small properties. Some of the older people would probably remain, such as his father.

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812.52/2939a

*The Secretary of State to the Mexican Ambassador (Castillo Nájera)*

WASHINGTON, July 21, 1938.

**EXCELLENCY:** During the recent years the Government of the United States has upon repeated occasions made representations to the Government of Mexico with regard to the continuing expropriation by Your Excellency's Government of agrarian properties owned by American citizens, without adequate, effective and prompt compensation being made therefor.

In extenuation of such action, the Mexican Government both in its official correspondence and in its public pronouncements has adverted to the fact that it is earnestly endeavoring to carry forward a program for the social betterment of the masses of its people.

The purposes of this program, however desirable they may be, are entirely unrelated to and apart from the real issue under discussion between our two Governments. The issue is not whether Mexico should pursue social and economic policies designed to improve the standard of living of its people. The issue is whether in pursuing them the property of American nationals may be taken by the Mexican Government without making prompt payment of just compensation to the owner in accordance with the universally recognized rules of law and equity.

My Government has frequently asserted the right of all countries freely to determine their own social, agrarian and industrial problems. This right includes the sovereign right of any government to expropriate private property within its borders in furtherance of public purposes. The Government of the United States has itself been very actively pursuing a program of social betterment. For example it has undertaken to improve the share of the farmer in the national income, to provide better housing, the wider use of electric power at reasonable rates, and security against old age and unemployment, to expand foreign trade through reduction of trade barriers, to prevent exploitation of labor through excessive hours and inadequate pay, to protect debtors from oppression, to curb monopolies; in short it is carrying out the most far-reaching program for the improvement of the general standard of living that this country has ever seen. Under this program it has expropriated from foreigners as well as its own citizens properties of various kinds, such as sub-

marginal and eroded lands to be retired from farming, slums to be cleared for housing projects, land for power dams, lands containing resources to be preserved for government use. In each and every case the Government of the United States has scrupulously observed the universally recognized principle of compensation and has reimbursed promptly and in cash the owners of the properties that have been expropriated.

Since the right of compensation is unquestioned under international law, it cannot be conceived that insistence on it by this Government should impair in any way the warm friendship which exists between the Government of Mexico and our own, and between the people of Mexico and our own. This is particularly true because we have, in fact, pursued a constantly expanding program of financial, economic and moral cooperation. We have been mutually helpful to each other, and this Government is most desirous, in keeping with the good neighbor policy which it has been carrying forward during the last five years, to continue to cooperate with the Mexican Government in every mutually desirable and advantageous way.

One of the greatest services we can render is to pursue, and to urge others to pursue, a policy of fair dealing and fair play based on law and justice. Just as within our own borders we strive to prevent exploitation of debtors by powerful creditors and to protect the common man in making an honest living, so we are justified in accordance with recognized international law in striving to prevent unfair or oppressive treatment of our own people in other countries. It is the experience of this hemisphere, and this Government is convinced, that only by these means can the conditions of the peoples in all countries be soundly and permanently improved. Certainly the destruction of underlying principles of law and equity does not conduce to such improvement.

In its negotiations with the Mexican Government for compensation for the lands of American citizens that have been expropriated, my Government has consistently maintained the principle of compensation. That it has been no party to an unjust or unreasonable use of the doctrine is demonstrated by the following record.

Agrarian expropriations began in Mexico in 1915. Up to August 30, 1927, 161 moderate sized properties of American citizens had been taken. The claims arising therefrom were after much discussion referred to the General Claims Commission established by agreement between the two Governments. It is appropriate to point out, however, that, as yet, and for whatever the reasons may be, not a single claim has been adjusted and none has been paid. The owners of these properties notwithstanding the repeated requests of this Government for settlement, lost their property, its use and proceeds, from eleven years to more than twenty years ago, and are still seeking redress.

Subsequent to 1927, additional properties, chiefly farms of a moderate size, with a value claimed by their owners of \$10,132,388, have been expropriated by the Mexican Government. This figure does not include the large land grants frequently mentioned in the press. It refers to the moderate sized holdings which rendered only a modest living. None of them as yet has been paid for. Considering that expropriation was the free act of the Mexican Government and the liability was voluntarily incurred by it, certainly on the basis of the record above stated, the United States Government cannot be accused of being unreasonable or impatient.

This latter group of cases has been in the past few years the subject of frequent representations by my Government. On March 27 of this year, it inquired of your Government<sup>29</sup> what specific action with respect to payment was contemplated. On April 19 the Mexican Government responded,<sup>30</sup> expressing its willingness to make a small monthly payment as settlement for a small number of agrarian claims of American nationals in one locality in Mexico. In response to an inquiry for further information you reiterated to this Department, on May 26 last,<sup>31</sup> substantially what the Government of Mexico had already stated. On June 29 a detailed communication was addressed to you, setting forth the amount of the claims advanced for compensation to American nationals for agrarian properties expropriated, containing suggestions as to how the value of these properties might be determined in a manner satisfactory to both Governments, and requesting that payments be commenced while the determination of value was being reached. On July 15 Your Excellency sent a further communication<sup>29</sup> to this Government in which no reference whatever was made to the suggestions advanced as to the method of determining the amounts owing for compensation, offering no indication that the Government of Mexico is prepared to make payments while the amount of the value of the properties expropriated is being determined, and stating that the Government of Mexico "has not contemplated covering entirely, during the present presidential term, the amount of the properties expropriated; much less has it undertaken, nor can it undertake, to proceed in such manner". In result, the American owners whose properties have been taken, are left not only without present payment, but without assurance that payment will be made within any foreseeable time.

The taking of property without compensation is not expropriation. It is confiscation. It is no less confiscation because there may be an expressed intent to pay at some time in the future.

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<sup>29</sup> Not printed.

<sup>30</sup> Memorandum from the Mexican Ministry for Foreign Affairs not printed.

<sup>31</sup> Letter not printed.

If it were permissible for a government to take the private property of the citizens of other countries and pay for it as and when, in the judgment of that government, its economic circumstances and its local legislation may perhaps permit, the safeguards which the constitutions of most countries and established international law have sought to provide would be illusory. Governments would be free to take property far beyond their ability or willingness to pay, and the owners thereof would be without recourse. We cannot question the right of a foreign government to treat its own nationals in this fashion if it so desires. This is a matter of domestic concern. But we cannot admit that a foreign government may take the property of American nationals in disregard of the rule of compensation under international law. Nor can we admit that any government unilaterally and through its municipal legislation can, as in this instant case, nullify this universally accepted principle of international law, based as it is on reason, equity and justice.

The representations which this Government has made to the Government of Mexico have been undertaken with entire friendliness and good will, and the Mexican Government has recognized that fact. We are entirely sympathetic to the desires of the Mexican Government for the social betterment of its people. We cannot accept the idea, however, that these plans can be carried forward at the expense of our citizens, any more than we would feel justified in carrying forward our plans for our own social betterment at the expense of citizens of Mexico.

The good neighbor policy can only be based on mutual respect by both governments of the rights of each and of the rights of the citizens of each. President Roosevelt could not have spoken more truly than when he recently stated that the good neighbor policy is

“a policy which can never be merely unilateral. In stressing it the American Republics appreciate, I am confident, that it is bilateral and multilateral and that the fair dealing which it implies must be reciprocated.”<sup>32</sup>

The Government of Mexico from the standpoint of the long run and healthy progress of the Mexican people should be just as vitally interested in maintaining the integrity of the good neighbor policy as any other country. The surest way of breaking up the good neighbor policy would be to allow the impression that it permits the disregard of the just rights of the nationals of one country owning property in another country. In company with the citizens of the other American republics citizens of the United States own properties

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<sup>32</sup> Address at laying of cornerstone of Federal Building at New York World's Fair, June 30, 1938, *The Public Papers and Addresses of Franklin D. Roosevelt* (New York, 1941), vol. VII, p. 412.

not only in Mexico, but in practically all countries. The same may be said of the citizens of the great majority of the nations of the world.

The whole structure of friendly intercourse, of international trade and commerce, and many other vital and mutually desirable relations between nations indispensable to their progress rest upon the single and hitherto solid foundation of respect on the part of governments and of peoples for each other's rights under international justice. The right of prompt and just compensation for expropriated property is a part of this structure. It is a principle to which the Government of the United States and most governments of the world have emphatically subscribed and which they have practiced and which must be maintained. It is not a principle which freezes the *status quo* and denies change in property rights but a principle that permits any country to expropriate private property within its borders in furtherance of public purposes. It enables orderly change without violating the legitimately acquired interests of citizens of other countries.

The Government of Mexico has professed its support of this principle of law. It is the considered judgment, however, of the Government of the United States that the Government of Mexico has not complied therewith in the case of several hundred separate farm or agrarian properties taken from American citizens. This judgment is apparently not admitted by your Government. The Government of the United States therefore proposes that there be submitted to arbitration the question *whether there has been compliance by the Government of Mexico with the rule of compensation as prescribed by international law in the case of the American citizens whose farm and agrarian properties in Mexico have been expropriated by the Mexican Government since August 30, 1927, and if not, the amount of, and terms under which, compensation should be made by the Government of Mexico.* My Government proposes that this arbitration be carried out pursuant to the provisions of the General Treaty of Arbitration signed at Washington January 5, 1929,<sup>34</sup> to which both our countries are parties.

Accept [etc.]

CORDELL HULL

812.52/3031

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 7155

MEXICO, August 3, 1938.

[Received August 5.]

SIR: I have the honor to enclose herewith a translation, subject to revision, of the Mexican reply to the American note on agrarian com-

<sup>34</sup> *Foreign Relations, 1929, vol. I, p. 659.*



pensation. This note was handed to me this morning at 9 o'clock by General Hay and, due to the shortage of time a copy of the Spanish text is not enclosed herewith but will be forwarded by tomorrow's air mail. For the same reason, I have not had time to study the note and I am, therefore, making no comment.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure—Translation]

*The Mexican Minister for Foreign Affairs (Hay) to the American Ambassador (Daniels)*

57900

MEXICO, August 3, 1938.

MR. AMBASSADOR: I have the honor to refer to your Government's note delivered on July 21 last, to the Mexican Ambassador to the United States, Dr. Francisco Castillo Nájera.

In the note referred to, your Government admits Mexico's right to expropriation as well as the social justice which inspires her agrarian reform, the cause of expropriations from American landholders; but insists upon immediate payment to United States citizens for their lands which have been taken from them, regardless of what our country may do with respect to its own nationals. Furthermore, your Government deplores the fact that until now the American landholders whose claims were included in the jurisdiction of the General Claims Commission created in the year 1923, have not obtained adequate compensation and adds that the zeal with which the Mexican Government endeavors to carry out its program of social betterment has nothing to do with the question under discussion and is irrelevant thereto. Your Government requires from that of Mexico the immediate payment of adequate compensation for the American landholders affected by the agrarian reform since August 30, 1927, alleging that otherwise my country will violate a universally recognized rule of international law based on reason, equity and justice.

My Government maintains, on the contrary, that there is in international law no rule universally accepted in theory nor carried out in practice, which makes obligatory the payment of immediate compensation nor even of deferred compensation, for expropriations of a general and impersonal character like those which Mexico has carried out for the purpose of redistribution of the land.

The expropriations made, in the course of our agrarian reform, do, in fact, have this double character which ought to be taken very much into account in order to understand the position of Mexico and rightly appraise her apparent failure to meet her obligations.

Without attempting to refute the point of view of the American Government, I wish to draw your attention very specially to the fact that the agrarian reform is not only one of the aspects of a program

of social betterment attempted by a government or a political group for the purpose of trying out new doctrines, but also constitutes the fulfilling of the most important of the demands of the Mexican people who, in the revolutionary struggle, for the purpose of obtaining it, sacrificed the very lives of their sons. The political, social and economic stability, and the peace of Mexico, depend on the land being placed anew in the hands of the country people who work it; a transformation of the country, that is to say, the future of the nation, could not be halted by the impossibility of paying immediately the value of the properties belonging to a small number of foreigners who seek only a lucrative end.

On the one hand, there are weighed the claims of justice and the improvement of a whole people, and on the other hand, the purely pecuniary interests of some individuals. The position of Mexico in this unequal dilemma could not be other than the one she has assumed, and this is not stated as an excuse for her actions but as a true justification thereof.

The enumeration made by your Government, in the note referred to, of social reforms recently carried out in the United States of North America demonstrates to what point the present hour demands a fundamental readjustment in the methods of government, for a few years ago the said reforms would not have been applauded and perhaps not even tolerated. If your Government has been in a position to make the payment of compensations at once, this circumstance only indicates that its economic circumstances permitted of doing so, but certainly it could not have postponed or abandoned those reforms, even in case such conditions had not been favorable.

As has been stated above, there does not exist, in international law, any principle universally accepted by countries, nor by the writers of treaties on this subject, that would render obligatory the giving of adequate compensation for expropriations of a general and impersonal character. Nevertheless Mexico admits, in obedience to her own laws, that she is indeed under obligation to indemnify in an adequate manner; but the doctrine which it maintains on the subject, which is based on the most authoritative opinions of writers of treatises on international law, is that the time and manner of such payment must be determined by her own laws.

Pursuant to the provisions of Article 27 of its Constitution<sup>35</sup> in force, the Mexican Government issued a law authorizing the issuance of agrarian bonds<sup>36</sup> for the purpose of compensating the landholders affected. But, from the beginning, the difficulty of establishing up to

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<sup>35</sup> Constitution of the United Mexican States, 1917, *Foreign Relations, 1917*, pp. 951, 955.

<sup>36</sup> The issuance of agrarian bonds was provided for by a series of decrees and regulations dating from January 10, 1920. For list of legislation, see Eyerly N. Simpson, *The Ejido, Mexico's Way Out*, pp. 729-733.

what point the various claims of an agrarian character, of United States citizens, merited or not, in every case, individually, the payment of a compensation, was, both for the United States Government and for that of Mexico, an obstacle in determining the right of the claimant and the amount which had to be paid to him, for my Government could not undertake to pay claims which had not been duly appraised.

There is, in fact, a group of claims which are based on great concessions granted, in other epochs and by other governments, which have been cancelled in view of the lack of accomplishment, by the concessionaries, of the obligations which they undertook; another group has as its basis the existence of great latifundia which were acquired practically without payment; there is another group of claims in which the owners obtained their titles from promotion companies without having carried out the obligations undertaken. The restitution of lands to pueblos, which had been despoiled of them by illegal means, constitutes another group in which the possessor had a title vitiated from the beginning. Other affectations originated in *ejidal* dotations in accordance with the Mexican agrarian laws, and in these cases Mexico has recognized its obligation to indemnify. And, lastly, there exists a certain number of claims of small and medium owners which, although subject to agrarian provisions, because their properties do not meet the requirements which the latter provisions indicate for small property not subject to expropriation, nevertheless, they having been obtained by subdivisions made by companies, which now are property of the Mexican state, my Government, because of reasons of a moral and equitable order, agreed to grant to the persons affected an immediate compensation by an exceptional procedure.

So then there exist claims in which the right adduced by the claimants is doubtful and debatable; on the other hand, in other claims, there does not, properly speaking, exist any juridical debate, since, as they originated in acts of a clearly expropriatory character of the Mexican Government, the latter raises opposition only to the amount thereof. In these last claims the problem consists substantially in reducing them to their just limits, since the majority contain exaggerated demands, for the value attributed to the properties is very different from that which the claimants themselves declared for the purpose of payment of their fiscal obligations. A settlement which would not take into account that situation would approve, against Mexico, the fraud on the Treasury committed by the parties interested.

My Government desires to make it plain that when it decided to suspend the payment of its agrarian debt in the year 1930, the measure affected equally Mexicans and foreigners. If Mexico had paid only the former, without doubt it would have violated a rule of equity;

if it had paid only the latter, to the exclusion of nationals, it would have committed a similar irregularity.

The Republics of our Continent have let their voice be heard since the first Pan American Conference, vigorously maintaining the principle of equality between nationals and foreigners, considering that the foreigner who voluntarily moves to a country which is not his own, in search of a personal benefit, accepts in advance, together with the advantages which he is going to enjoy, the risks to which he may find himself exposed. It would be unjust that he should aspire to a privileged position safe from any risk, but availing himself, on the other hand, of the effort of the nationals which must be to the benefit of the collectivity.

Crowning with success the effort maintained by the States of this Continent against the idea of a special status for foreigners, there was approved, at the Second Pan American Conference, held at Mexico City in 1902, a formula which was broadened and reinforced by Article 9 of the Convention signed at the Seventh Pan American Conference,<sup>37</sup> which reads: "The jurisdiction of the States within the limits of the national territory, is applicable to all the inhabitants. Nationals and foreigners who are under the same protection of the national legislation and authorities the foreigners can not claim rights different from or more extensive than nationals." [*sic*]

The demand for unequal treatment is implicitly included in your Government's note for while it is true that it does not so state clearly, it does require the payment to its nationals, independently of what Mexico may decide to do with regard to her citizens, and as your Government is not unaware that our Government finds itself unable immediately to pay the indemnity to all affected by the agrarian reform, by insisting on payment to American landholders, it demands, in reality, a special privileged treatment which no one is receiving in Mexico.

In the note under reply, it is stated that the claims of an agrarian character previous to 1927, were submitted to the jurisdiction of the General Claims Commission, established by a Convention between the two Governments, and that, to date, whatever the reason may have been, not even a single claim has been adjusted and not one has been paid.

The Government of the United States of North America can not be unaware, as it appears to admit in the note to which I have been referring, of the reasons why the General Claims Commission has not, until now, been able to resolve those of an agrarian character; reasons due to technical difficulties which were not foreseen at the

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<sup>37</sup> Convention on Rights and Duties of States, signed at Montevideo, December 26, 1933, *Foreign Relations*, 1933, vol. iv, p. 214.

establishment of the provisions regulating the arbitration and which can not be attributed to voluntary acts of either of the two countries. Furthermore, it is known to Your Excellency's Government that Mexico is disposed to initiate the necessary negotiations for the purposes of arriving at a global arrangement which would overcome those technical obstacles and settle those claims definitively.

It is opportune to recall that my country's Government has been punctually paying, since the year 1935, the annuities which it undertook to pay by such an arrangement, which put an end to the Special Claims Commission notwithstanding that, for the latter, there did not exist against it, a responsibility which could be imputed to it, according to the most indisputable precepts of international law, it being, on the contrary, a case of acceptance *ex gratia* of the said responsibility.

In the final part of the note to which I am replying Your Excellency's Government proposes that there be submitted to the decision of arbitrators, within the terms of the General Arbitration Treaty signed at Washington, January 5, 1929, the following points:

1. The question whether there has been compliance on the part of Mexico with the rule relative to indemnification as prescribed by international law, in the case of United States citizens whose agrarian properties situated in Mexico have been expropriated by the Mexican Government since August 30, 1927;

2. If not, the amount of the indemnification which the Government of Mexico ought to pay;

3. That the conditions be established under which the said payment shall be made, and

4. That the arbitration referred to be carried out in accordance with the provisions of the General Treaty of Inter-American Arbitration, signed at Washington, January 5, 1929.

Mexico has never refused to submit its international differences to the jurisdiction of a court to judge according to law either acts or attitudes toward foreigners, nor has it raised objections to the decisions which have been unfavorable to it. Nevertheless, she considers that arbitration should be reserved, as the same Treaty of Washington establishes, for cases of irreducible differences in which the juridical principle under discussion or the act giving origin to the arbitration are of such a character that the two peoples at variance do not find any more obvious way of coming to an agreement. Such is not the present case, for while it is true that Mexico does not consider that payment of an indemnification for properties which the State expropriates on grounds of public utility, is an invariable and universal rule of international law, it is also true that Article 27 of her Constitution ordains payment in such cases and, therefore, the Mexican Government has never denied such obligation. There is no subject matter, therefore, for the arbitration proposed.

With respect to the conditions under which the said payment should be made, arbitration is likewise unnecessary. It would, furthermore, be improper, under the terms of the Treaty of Washington, since the procedures of execution for the carrying out of obligations already recognized by Mexico can not be a subject for arbitration and would have to be established in accordance with her economic conditions, which can not but be taken into account by a friendly people, nor can that be the subject for decision of an international court, which, by attempting to impose a certain economic organization upon Mexico, would give a death blow to her right to organize herself autonomously, the very basis of her sovereignty. I, therefore, take the liberty of inviting Your Excellency's Government to appoint a representative, so that, together with the representative whom my Government would designate, they may fix within a brief period of time the value of the properties affected and the manner of payment, which my Government considers as execution, in part, of a general plan for the carrying out of her obligations in this respect, both in favor of nationals and foreigners. The Government of Mexico is ready to discuss at once the terms of this arrangement.

I believe that in this way, as a demonstration of the spirit of friendship and cooperation, animating the Government and the people of Mexico toward the Government and the people of the United States, the request for the indemnification of American citizens for the lands which, in compliance with the agrarian legislation, have been taken from them subsequently to August 30, 1927, will be satisfied.

I avail myself [etc.]

EDUARDO HAY

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812.52/3105

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 7201

MEXICO, August 9, 1938.

[Received August 19.]

SIR: I have the honor to refer to my despatch No. 7122 of July 28, 1938,<sup>88</sup> transmitting a copy of a note to the Foreign Office requesting that definitive dotation of American-owned lands in the Yaqui Valley be postponed pending the making of arrangements for compensation to the American owners.

A note, in reply, has now been received from the Foreign Office to the effect that since a method of compensation was provided in the Eighth Paragraph of the Presidential *Acuerdo* of October 27, 1937,<sup>89</sup> it is not opportune for the Foreign Office to comply with our request.

<sup>88</sup> Not printed.

<sup>89</sup> *Foreign Relations*, 1937, vol. v, p. 622.

A translation of the note from the Foreign Office is transmitted herewith.<sup>40</sup>

The Department's attention is particularly invited to the fact that paragraph VIII quoted from the Presidential Acuerdo refers amongst other things to the furnishing of free water on compensation lands; it will doubtlessly be recalled that Mr. Beteta, Undersecretary for Foreign Affairs, informed Mr. Boal, Counselor of the Embassy, that it would be very difficult to comply with this provision of the Acuerdo, which Acuerdo is that generally affecting lands in the Yaqui Valley.

A copy of this despatch with enclosure has been sent to the American Vice Consul at Guaymas for his strictly confidential information.

Respectfully yours,

JOSEPHUS DANIELS

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812.52/3126a

*The Secretary of State to the Mexican Ambassador (Castillo Nájera)*

WASHINGTON, August 22, 1938.

EXCELLENCY: I have the honor to acknowledge the receipt of the Mexican Government's note of August 3 last delivered to the Ambassador of the United States in Mexico City, which note was intended to be a reply to my note of July 21 addressed to Your Excellency.

## I

In my note under reference this Government called to the attention of Your Excellency's Government the fact that many nationals of the United States, chiefly the owners of farms of moderate size with a claimed value of \$10,132,388 which have been expropriated by the Mexican Government subsequent to 1927, have not only been left without any payment for the properties so taken, but likewise without assurance that any payment would be made by the Mexican Government to them within any foreseeable time. I further stated, "The taking of property without compensation is not expropriation. It is confiscation. It is no less confiscation because there may be an expressed intent to pay at some time in the future."

I said that the Government of the United States cannot admit that a foreign government may take the property of American nationals in disregard of the universally recognized rule of compensation under international law or admit that the rule of compensation can be nullified by any country through its own local legislation.

My Government had in mind that the doctrine of just compensation for property taken originated long in advance of international law. Beyond doubt the question first arose when one person sought to take

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<sup>40</sup> Not printed.

the property of another. Civilized society determined that common justice required that it be paid for. One nation after another decided that it was fair and reasonable, equitable and right, to accompany a taking of property by payment of just compensation. In due time the nations of the world accepted this as a sound basic rule of fair play and fair dealing. Today, it is embodied in the constitutions of most countries of the world, and of every republic of the American continent; and has been carried forward as an international doctrine in the universally recognized law of nations. There is, indeed, no mystery about international law. It is nothing more than the recognition between nations of the rules of right and fair-dealing, such as ordinarily obtain between individuals, and which are essential for friendly intercourse.

In the reply of Your Excellency's Government now under acknowledgment the Government of Mexico states that it maintains "that there is in international law no rule universally accepted in theory nor carried out in practice, which makes obligatory the payment of immediate compensation, nor even of deferred compensation, for expropriations of a general and impersonal character like those which Mexico has carried out for the purpose of the redistribution of the land." The Mexican Government further states that "there does not exist in international law any principle universally accepted by countries, nor by the writers of treatises on this subject, that would render obligatory the giving of adequate compensation for expropriations of a general and impersonal character", and continues by declaring that while Mexico admits "in obedience to her own laws that she is indeed under obligation to indemnify in an adequate manner" . . . "the time and manner of such payment must be determined by her own laws" and that such assertion is "based on the most authoritative opinions of writers of treatises on international law."

My Government has received this contention on the part of the Government of Mexico, I feel it necessary to state with all candor, not only with surprise, but with profound regret.

Reduced to its essential terms, the contention asserted by the Mexican Government as set forth in its reply and as evidenced by its practices in recent years, is plainly this: that any government may, on the ground that its municipal legislation so permits, or on the plea that its financial situation makes prompt and adequate compensation onerous or impossible, seize properties owned by foreigners within its jurisdiction, utilize them for whatever purpose it sees fit, and refrain from providing effective payment therefor, either at the time of seizure or at any assured time in the future.

I do not hesitate to maintain that this is the first occasion in the history of the western hemisphere that such a theory has been seriously advanced. In the opinion of my Government, the doctrine so pro-



posed runs counter to the basic precepts of international law and of the law of every American republic, as well as to every principle of right and justice upon which the institutions of the American republics are founded. It seems to the Government of the United States a contention alien to the history, the spirit and the ideals of democracy as practiced throughout the independent life of all the nations of this continent.

If such a policy were to be generally followed, what citizen of one republic making his living in any of the other twenty republics of the western hemisphere could have any assurance from one day to the next that he and his family would not be evicted from their home and bereft of all means of livelihood? Under such conditions, what guarantees or security could be offered which would induce the nationals of one country to invest savings in another country, or even to do ordinary business with the nationals of another country?

## II

The fundamental issues raised by this communication from the Mexican Government are therefore, first, whether or not universally recognized principles of the law of nations require, in the exercise of the admitted right of all sovereign nations to expropriate private property, that such expropriation be accompanied by provision on the part of such government for adequate, effective, and prompt payment for the properties seized; second, whether any government may nullify principles of international law through contradictory municipal legislation of its own; or, third, whether such Government is relieved of its obligations under universally recognized principles of international law merely because its financial or economic situation makes compliance therewith difficult.

The Government of the United States merely adverts to a self-evident fact when it notes that the applicable precedents and recognized authorities on international law support its declaration that, under every rule of law and equity, no government is entitled to expropriate private property, for whatever purpose, without provision for prompt, adequate, and effective payment therefor. In addition, clauses appearing in the constitutions of almost all nations today, and in particular in the constitutions of the American republics, embody the principle of just compensation. These, in themselves, are declaratory of the like principle in the law of nations.

The universal acceptance of this rule of the law of nations, which, in truth, is merely a statement of common justice and fair-dealing, does not in the view of this Government admit of any divergence of opinion. Merely as one of many examples of enlightened authoritative opinion of present times upon this subject, I cite the following authority as a pertinent example.

In 1903 in the arbitration of the Selwyn case which had arisen between the Governments of Great Britain and Venezuela, the umpire in the case stated: "The fundamental ground of this claim as presented is that the claimant was deprived of valuable rights, of moneys, properties, property and rights of property by an act of the Government which he was powerless to prevent and for which he claims reimbursement. This act of the Government may have proceeded from the highest reasons of public policy and with the largest regard for the state and its interests; but when from the necessity or policy of the Government it appropriates or destroys the property or property rights of an alien it is held to make full and adequate recompense therefor."<sup>41</sup>

With regard to the further fundamental issues presented in the reply of Your Excellency's Government the Mexican Government now advances the surprising contention that it may expropriate property and pay therefor, insofar as its economic circumstances and its local legislation permit, but that if these circumstances and legislation do not make possible the payment of compensation, it can still take the property. If this theory were sound, the safeguards which the fundamental laws of most countries and established international law have sought to provide for private property would be utterly worthless. Governments would be free to take private property far beyond or regardless of their ability or willingness to pay, and the owners thereof would be without recourse. This, of course, would be unadulterated confiscation.

As I stated to Your Excellency in my note of July 21, the Government of the United States cannot admit that any government may of its single will, whether through its municipal legislation or by pleading economic inability, abandon the recognized principle of international law requiring just compensation, whenever the purposes for which expropriation is undertaken may seem to that government desirable.

My Government considers that its own practice has amply demonstrated that it is the consistent friend of reform, that it has every sympathy with misfortune and need, and that it recognizes fully the necessities of the under-privileged. It cannot, however, accept the idea that these high objectives justify, or for that matter require, infringement on the law of nations or the upsetting of constitutionally recognized guarantees. The modern world furnishes many examples of nations which have effected major social reforms, under unusually difficult economic conditions, while complying with every rule of equity, fair-dealing and basic law. Many governments, like the Mexi-

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<sup>41</sup> Jackson H. Ralston and W. T. Sherman Doyle, *Venezuelan Arbitrations of 1903*, Senate Doc. No. 316, 58th Cong., 2d sess. (Washington, Government Printing Office, 1904), pp. 325-326.

can Government, today face the necessity of planning, as the Mexican Government says it does, for social betterment and for political, social and economic stability. Is it conceivable that in order to attain these desirable objectives it is necessary for governments to rest the entire undertaking on a policy of confiscation? Every sovereign nation is in possession of powers to regulate its internal affairs, to reorganize, when needful, its entire economic, financial, and industrial structure, and to achieve social ends by methods conforming with law.

Instead of using these recognized and orderly methods, the Government of Mexico in effect suggests that whenever special conditions or circumstances obtain in any one country, that country is entitled to expect all the other nations of the world to accept a change in the settled rules and principles of law, which are domestic quite as much as international, solely in order to assist the country in question to extricate itself from difficulties for which it is itself entirely responsible. Specifically, it is proposed to replace the rule of just compensation by rule of confiscation. Adoption by the nations of the world of any such theory as that would result in the immediate breakdown of confidence and trust between nations, and in such progressive deterioration of international economic and commercial relations as would imperil the very foundations of modern civilization. Human progress would be fatally set back.

The policy of expropriation of these lands without any payment as required by law and equity and justice, places this Government in a situation where it must either assert and maintain with all vigor the doctrine of just compensation, or else acquiesce in the repudiation and abolition of that doctrine. Obviously it cannot adopt the latter course. To do so would make it a party to an undermining of the integrity which would characterize the normal relations between all nations and their peoples.

The vital interest of all governments and of all peoples in this question and the imperative need of all countries to maintain unimpaired the structure of common justice embodied in international as well as in basic national law, lead me, particularly in view of the warm friendship existing between the two countries, to appeal most earnestly to the Mexican Government to refrain from persisting in a policy and example which, if generally pursued, will seriously jeopardize the interests of all peoples throughout the world.

### III

The Mexican Government rejects the proposal of the Government of the United States that there be submitted to arbitration, in the terms of the General Arbitration Treaty signed at Washington on January 5, 1929, the two following points: first, whether there has been compliance by the Government of Mexico with the rule of com-

pensation as prescribed by international law in the case of American citizens whose farms and agrarian interests in Mexico have been expropriated by the Mexican Government since August 30, 1927, and second, if not, the amount of and terms under which compensation should be made by the Government of Mexico.

The Mexican Government sets forth as its reasons for rejecting the proposal of the United States for arbitration, its opinion that "arbitration should be reserved, as the same Treaty of Washington establishes, for cases of irreducible differences in which the juridical principle under discussion or the act giving origin to the arbitration are of such a character that the two peoples at variance do not find any more obvious way of coming to an agreement". The Mexican Government continues by stating that, "Such is not the present case, for while it is true that Mexico does not consider that payment of an indemnification for properties which the state expropriates on grounds of public utility is an invariable and universal rule of international law, it is also true that Article 27 of her Constitution ordains payment in such cases, and, therefore, the Mexican Government has never denied such obligation". "There is no subject matter", the Mexican Government continues by stating, "therefore, for the arbitration proposed". Your Excellency's Government concludes by stating its opinion that, "With respect to the conditions under which the said payment should be made, arbitration is likewise unnecessary and it would, furthermore, be improper under the terms of the Treaty of Washington since the procedures of execution for the carrying out of obligations already recognized by Mexico cannot be a subject for arbitration and would have to be established in accordance with her economic conditions, which cannot but be taken into account by a friendly people, nor can that be the subject for decision of an international court, which by attempting to impose a certain economic organization upon Mexico, would give a death blow to her right to organize herself autonomously, the very basis of her sovereignty."

The Government of the United States is unable to acquiesce in the reasons so advanced for refusal to accept the proposed arbitration. It is quite true, as the Mexican Government states, that Article 27 of the Mexican Constitution orders payment in cases of expropriation for causes of public utility of private property by the Mexican Government. I need hardly remind Your Excellency, however, that such payments in the cases of the American nationals under consideration have not been made. The very provisions of the Mexican Constitution and of the Mexican laws referred to by the Government of Mexico with such satisfaction have already been negatived in practice. They would now seem to have been abrogated in practical effect by the contention set forth in your Government's last communication.

While this Government shares the view of the Mexican Government that arbitration should be reserved for cases in which the two countries in conflict can find no other way of reaching an agreement, I may here appropriately quote the first paragraph of Article 1 of the Treaty of Inter-American Arbitration, which has been suggested by the United States as an appropriate vehicle for the friendly and impartial solution of our differences and which reads as follows:

“The High Contracting Parties bind themselves to submit to arbitration all differences of an international character which have arisen or may arise between them by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy and which are juridical in their nature by reason of being susceptible of decision by the application of the principles of law.”<sup>42</sup>

I find it necessary emphatically to state that, after many years of patient endeavor on the part of this Government to obtain just satisfaction for these claims without success, the Government of the United States has regretfully reached the conclusion that it is impossible to adjust them by diplomacy. Since they are obviously susceptible of decision by the application of principles of law, it believes that the proposed arbitration is the appropriate and friendly method of solution. Nor can this Government admit that the determination by arbitration of the “amount of and terms under which compensation should be made by the Government of Mexico” is a matter which in any sense impairs the autonomy of Mexico. An agreement to arbitrate on the part of sovereign nations like any treaty as, for example, the Inter-American Treaty of Arbitration itself, ratified by both Mexico and the United States, is a voluntary limitation of the exercise of sovereignty by acceptance of principles of justice, fair-dealing and law. Indeed, the highest attribute of sovereignty is the power to make just such agreements. It is exactly in this manner that civilization has advanced.

Article 1 of the Inter-American Treaty of Arbitration specifies, as questions arising between the American nations which are susceptible to the proposed arbitration: “(b) Any question of international law; (c) The existence of any fact which, if established, would constitute a breach of an international obligation.”

The Government of the United States maintains that in the treatment accorded its nationals by the Government of Mexico, as set forth in my note of July 21, the Government of Mexico has disregarded the universally recognized principles of international law, and that its failure to make adequate, prompt, and effective payment for properties expropriated constitutes the breach of an international obligation. It follows that the controversy which has thus arisen is not one which

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<sup>42</sup> *Foreign Relations*, 1929, vol. I, pp. 659, 661.

the Mexican Government can refuse to arbitrate upon the ground that its economic situation impedes it from abiding by the principles of international law, or upon the ground that its municipal legislation provides for a different procedure. My Government, therefore, in the most friendly spirit urges the Mexican Government to reconsider the position which it has taken and to agree to submit to the proposed arbitration the questions at issue between the two Governments, as formulated in my note to Your Excellency of July 21.

#### IV

The Mexican Government refers to the fact that, when it undertook suspension of the payment of its agrarian debt, the measure affected equally Mexican and foreigners. It suggests that if Mexico had paid only the latter to the exclusion of its nationals, she would have violated a rule of equity. In that connection the Mexican Government refers to Article 9 of the Convention signed at the Seventh Pan American Conference, which says: "The jurisdiction of states within the limits of national territory applies to all the inhabitants. Nationals and foreigners are under the same protection of the law and the national authorities and the foreigners may not claim rights other or more extensive than those of the nationals."<sup>43</sup>

Your Excellency's Government intimates that a demand for unequal treatment is implicit in the note of the Government of the United States, since my Government is aware that Mexico is unable to pay indemnity immediately to all of those affected by her agrarian reform and yet it demands payment to expropriated landowners who are nationals of the United States. This, it is suggested, is a claim of special privilege which no one is receiving in Mexico.

I must definitely dissent from the opinions thus expressed by the Government of Mexico. The Government of the United States requests no privileged treatment for its nationals residing in Mexico. The present Government of the United States has on repeated occasions made it clear that it would under no circumstances request special or privileged treatment for its nationals in the other American republics, nor support any claim of such nationals for treatment other than that which was just, reasonable, and strictly in harmony with the generally recognized principles of international law.

The doctrine of equality of treatment, like that of just compensation, is of ancient origin. It appears in many constitutions, bills of rights and documents of international validity. The word has invariably referred to equality in lawful rights of the person and to protection in exercising such lawful rights. There is now announced by your Government the astonishing theory that this treasured and cherished principle of equality, designed to protect both human and property

<sup>43</sup> *Foreign Relations*, 1933, vol. iv, p. 215.

rights, is to be invoked, not in the protection of personal rights and liberties, but as a chief ground of depriving and stripping individuals of their conceded rights. It is contended, in a word, that it is wholly justifiable to deprive an individual of his rights if all other persons are equally deprived, and if no victim is allowed to escape. In the instant case it is contended that confiscation is so justified. The proposition scarcely requires answer. In addition, it must be observed that the claimants in these expropriation cases did not seek to become creditors of the Mexican Government. They were forced into that position by the act of Mexico herself.

It may be noted in passing that the claim here made on behalf of American nationals is, in substance, similar to the claims which Mexican nationals have against their own Government under the Mexican Constitution adverted to by Your Excellency's Government. It is, of course, the privilege of a Mexican national to decline to assert such claim, as it is the power of the Mexican Government to decline to give it effect; but such action on the part of Mexico or her nationals cannot be construed to mean that American nationals are claiming any position of privilege. The statement in your Government's note to the effect that foreigners who voluntarily move to a country not their own assume, along with the advantages which they may seek to enjoy, the risks to which they may be exposed and are not entitled to better treatment than nationals of the country, presupposes the maintenance of law and order consistent with principles of international law; that is to say, when aliens are admitted into a country the country is obligated to accord them that degree of protection of life and property consistent with the standards of justice recognized by the law of nations. Actually, the question at issue raises no possible problem of special privilege. The plain question is whether American citizens owning property in Mexico shall be deprived of their properties and, in many instances, their very livelihood, in clear disregard of their just rights. It is far from legitimate for the Mexican Government to attempt to justify a policy which in essence constitutes bald confiscation by raising the issue of the wholly inapplicable doctrine of equality.

## V

The Government of Mexico, in the note under reply, suggests the existence of a number of subsidiary questions. Included in these are questions of the legality of the titles to expropriated property; and considerations of law, equity and valuation arising in individual cases, presenting the problem whether certain claims are just, in whole or in part, and what the amount of certain claims should be. Until the principle of just compensation has been recognized, these subsidiary questions need not be considered. My Government has repeatedly

stated that it sought just and not unjust compensation so far as amount was concerned; and that it would support only just and not unjust claims so far as the law and equity of each claim was concerned. But since the Mexican Government has challenged the doctrine of just compensation and proposes to substitute for it, to all intents and purposes, the theory of confiscation, the merits of this fundamental issue must be determined before any others can be considered. It is beside the question to discuss the merits of any claim, or the titles or equities involved, or the facts and factors pertaining to valuation. Once the principle of just compensation is accepted, these become matters relevant to the problem of payment. Until then, their discussion is fruitless.

## VI

In concluding the note now under acknowledgment, the Mexican Government invites the Government of the United States "to appoint a representative, so that together with the representative whom my Government would designate, they may fix, within a brief period of time, the value of the properties affected and the manner of payment." The Mexican Government states that it considers such proposal the execution in part of a "general plan for the carrying out of her obligations in this respect, both in favor of nationals and foreigners", and asserts its willingness to begin at once the discussion of the terms of this arrangement. In effect, the Government of Mexico now proposes to talk about the valuation of some of the lands of American citizens seized by the Mexican Government in recent years. Yet we have held conversations with regard to payment for many years without result. Seemingly, the Mexican Government proposes to continue the policy of taking property without payment, while continuing discussions of past takings.

In tendering the proposal so made, is the Government of Mexico prepared to agree that no further taking will take place without payment?

Can it hold out any reasonable measures of certainty that a determination of the value of the properties affected and of the manner of payment for them can be had "within a brief period of time"? Pending the reaching of an agreement between the commissioners on all of these points, will the Government of Mexico set aside sufficient cash in order to assure prompt payment in accordance with the terms of the agreement so reached? Is the Government of Mexico prepared to offer satisfactory commitments on these two points?

In the light of its experience in the unfruitful negotiations held with the Mexican Government in recent years on these subjects, my Government believes that, unless the Government of Mexico offers satisfactory commitments on these essential matters, acceptance of



the suggestion of the Mexican Government would merely result in discussions which would continue over a period of many years, and which would not achieve that equitable and satisfactory solution which both Governments are assumed to desire. This would assuredly not be the case were resort had to arbitration.

## VII

My Government, in its desire to expedite and to facilitate a fair solution of this question in every possible and proper manner, without, however, in any way altering its position as above set forth, will be willing, should the Government of Mexico refuse to agree to resort to arbitration as hereinbefore proposed, to reiterate the proposal contained in the informal communication from Undersecretary Welles to you under date of June 29. Your Excellency will recall that to that communication was attached an itemized list of the claims of American property owners referred to in my note of July 21. It was then suggested that the amount of compensation, together with any subsidiary questions such as the extent of the area expropriated, be determined by agreement by two commissioners, one appointed by the Government of Mexico, the other by the Government of the United States, and that, in the event of disagreement between the two commissioners regarding the amount of compensation due in any case, or of any other question necessary for a determination of value, these questions be decided by a sole arbitrator selected by the Permanent Commission at Washington provided for by the so-called Gondra Treaty, signed at Santiago, May 3, 1923,<sup>44</sup> to which both our Governments are parties. It was likewise suggested that in order to advance a settlement of the matter, the Governments of Mexico and of the United States name immediately their respective commissioners and request the Permanent Commission to name concurrently the sole arbitrator. This Government further proposed that as an indispensable part of the act of expropriation and compensation, the Government of Mexico should set aside monthly in escrow in some agreed upon depository a definite amount for the exclusive purpose of making compensation for expropriated property as and when definite determinations of value have been arrived at in each case; and that should the determinations of compensation show a reduction from the amounts now claimed, the monthly deposits would be scaled down accordingly.

If the Government of Mexico considers that negotiations for a settlement of these claims have not in fact been exhausted and desires to find an equitable and friendly solution to the question as indicated in the last portion of the note of the Mexican Government of August 3, the most practical evidence of the desire of the Mexican Government

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<sup>44</sup> *Foreign Relations*, 1923, vol. I, p. 308.

to find a fair, friendly and impartial solution would be manifested by its willingness to accept the proposal contained in the communication of the Undersecretary of June 29, and now hereinbefore reiterated. If, on the other hand, the Mexican Government is not desirous of adopting the procedure just outlined embodying safeguards to ensure payment and prevent fruitless negotiation, it would surely seem to be appropriate and fitting, and strictly within the purview of the obligation contracted by both countries under the terms of the Treaty of Inter-American Arbitration for the Governments of Mexico and of the United States to submit their controversy to arbitration in the manner suggested in my note of July 21. In either such case, my Government feels justified in requesting that, during the proposed arbitration, or during the proposed settlement suggested in the communication of June 29, the Mexican Government should agree that no further taking of the properties of American nationals should take place unless accompanied by arrangements for adequate, prompt, and effective payment.

In conclusion, may I say to Your Excellency that this Government has on repeated occasions made manifest its most sincere desire to pursue a policy of intimate and friendly cooperation with the Government of Mexico because of its conviction that the interests of the two nations, as well as the interests of inter-American friendship and solidarity, would thereby be advanced. It is the hope of this Government that it may be able to continue on that course. When two neighbors like Mexico and the United States, jointly desirous of maintaining and of perfecting their friendship, find that differences arise between them which it would appear can unfortunately not be solved by direct negotiations, it is the belief of this Government that the submission of such questions as rapidly as may be possible to an impartial arbitration is the policy required by good neighborliness. I express the very earnest hope of the Government of the United States that the Government of Mexico may speedily indicate its willingness to accede to one of the two alternative proposals above presented.

Accept [etc.]

CORDELL HULL

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812.52/3203 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, September 1, 1938—10 p. m.

[Received September 2—7:35 a. m.]

360. I have just received the following note from the Foreign Office dated September 1, 1938:

[Translation] "Mr. Ambassador: I have the honor to reply to your Government's note delivered August 22 of the current year to the

Ambassador of Mexico in the United States of North America in which there are set forth various opinions regarding international law and views are expressed regarding the laws of Mexico and acts of my Government. As a detailed analysis of those views might become a discussion of an academic character which, instead of aiding a better understanding between our respective countries and clarifying the existing problems might, perhaps, alienate us from the spirit which friendship and mutual respect impose on us, I refrain from entering into a detailed study of the note referred to, limiting myself to upholding the bases of the international position which Mexico has assumed and to fixing the specific points which may serve as a basis for the prompt and definitive solution of the subject. I cannot, however, fail to express to Your Excellency the regret with which the people and the Government of Mexico have seen that your Government, disregarding the motives, the causes, and the historical antecedents, political and social, of our agrarian revolution, expresses the opinion that the juridical position maintained by Mexico is contrary to the fundamental principles of international law, to ethics and to democratic practices. Mexico believes, on the contrary, that it has adjusted its acts to the standards of international law in accordance with the evolution which the traditional concepts of that law have necessarily undergone. Far from judging that its attitude departs from the standard accepted by the civilized world in general and by the republics of this continent in particular, my country considers that its interpretation represents the unanimous conviction of the Ibero-American Republics and reflects juridical thought at the present moment. Mexico believes likewise that unless the true meaning of the word 'democratic' is changed, it cannot be said that a social reform involving the life of the immense majority of the population of the country can be qualified as anti-democratic. Confronted with the inescapable obligation of carrying out the agrarian reform—undoubtedly the most important point of the revolutionary program—my Government must expropriate (*afectar*) all the lands that may be necessary until their complete distribution, as is ordered by the constitution and the agrarian code of Mexico, laws which established the duty of indemnifying the owner of the lands taken, although the delivery of the indemnification might have to be postponed.

The rights of society are in this case beyond doubt, and the social necessity is so urgent that its satisfaction cannot be subordinated to the possibilities of an immediate payment. In view of the fact that the aspirations of the collectivity must prevail over individual interests, Mexico cannot refrain from carrying out the redistribution of the land although in so doing she might likewise affect foreigners.

This attitude of Mexico is not, as Your Excellency's Government affirms, either unusual or subversive. Numerous nations, in reorganiz-

ing their economy, have been under the necessity of modifying their legislation in such manner that the expropriation of individual interests nevertheless do not call for immediate compensation and, in many cases, not even subsequent compensation; because such acts were inspired by legitimate causes and the aspirations of social justice, they have not been considered unusual nor contrary to international law. As my Government stated to that of Your Excellency in my note of August 3, it is indispensable, in speaking of expropriations, to distinguish between those which are the result of a modification of the juridical organization and which affect equally all the inhabitants of the country, and those others decreed in specific cases and which affect interests known in advance and individually determined.

There are numerous examples of nations whose cultural progress is beyond discussion, which have seen themselves obliged, without repudiating the right of property in the abstract, to issue laws which have signified expropriation without immediate payment and sometimes without later compensation. Countries might be mentioned which, under pressure of reasons considered to be of public necessity, have forced private individuals to exchange their gold and their gold certificates for money which has already been depreciated, or which was depreciated immediately afterwards. Those countries have also been under necessity to require private persons, without distinguishing between nationals and foreigners, to receive in payment of obligations, which had been contracted in gold, the already depreciated currency of the country. Because expropriation was indirect in these cases it was none the less effective, since the owners of gold and gold certificates in the first example, or of credits payable in gold, in the second one, have seen their property diminish without receiving adequate compensation in return. Notwithstanding that each time that measures of this character have been decreed, there have not been lacking those who described it as 'confiscation pure and simple' and notwithstanding the fact that they must have caused loss of confidence in investors, and serious disturbances in commerce, the courts of the various countries justified them, in view precisely of the reasons of a superior order and of the public interest which inspired the said measures and the necessity of maintaining the equilibrium of the national economy. It is true that when these emergency measures were adopted the countries which were economically weak, which desired to pay off their obligations, contracted in gold, with depreciated currency, the creditor nations, representing their nationals, denounced debtor countries before the Permanent Court of International Justice, accusing them of being transgressors against right, but later, the same powerful countries which did so could not avoid having recourse to the measures which they had criticized so severely, for the purpose of solving their own problems. Following the juri-

dical transformations of the law of property, although without destroying it, some states have incorporated in their public law the fundamental principle that interests of individuals are subordinated to those of the community as was stated by the Spanish constitution of 1931 in whose Article VV (*sic*),<sup>45</sup> after establishing that 'all the wealth of the country, whoever may be its owner, is subordinated to the necessities of the national economy', provides that 'properties may be subject to forced expropriation on account of social utility by payment of adequate indemnization unless it is otherwise provided by a law approved by the votes of an absolute majority of the Cortes'.

In the Republic of Czechoslovakia, according to its constitution, the law 'can limit the exercise of private property' and 'expropriation cannot be effected without previous authorization of the law and indemnization unless a law should provide, either at present or in the future, that indemnization is not granted'. (Article 109)<sup>46</sup>

The German constitution declares that 'It cannot make any expropriation except for public utility and in accordance with the law. It would be effected by adequate indemnification, unless a law of the Reich otherwise provides. Respecting the sum of the indemnity recourse can be had in case of disagreement to the ordinary courts, except for the laws of the Reich which stipulate the contrary.'<sup>47</sup>

In addition to the states whose constitutions I have just quoted, it is very interesting to observe that Yugoslavia, Bulgaria, Greece, Estonia, Finland, Latvia, Lithuania, Poland, Rumania and several others have already adopted in their organic regions agrarian reforms with procedures similar to those established in the fundamental law of Mexico.

In examining the agrarian law of Rumania the Dean of the Law Faculty of Paris, Mr. H. Berthelmew, maintains, together with a select group of jurists of world reputation, that the application of that law in the important case of the Hungarian optants of Transylvania is not contrary to the standards of international law, and recalls that agrarian laws have been passed which have caused expropriations with inadequate indemnification, in Prussia (1811), in Austria (1848), in Russia (1861), and even in the United Kingdom of Great Britain, when it included Ireland. (*Agrarian Reform in Rumania, 1927*, pages 50 and 59). The foregoing examples have been cited, not in support of the possibility of failing to pay for the expropriations on account of public utility, since on this particular point my Government has

<sup>45</sup> Reference is apparently to article 44; see Spain, *Constitución de la República Española, Gaceta de Madrid*, December 9, 1931.

<sup>46</sup> Czechoslovakia, *The Constitution of the Czechoslovak Republic* (Prague, 1920), p. 42.

<sup>47</sup> William B. Munro and Arthur N. Holcombe, trans., *The Constitution of the German Commonwealth*, World Peace Foundation Pamphlets, League of Nations, vol. II, No. 6 (December, 1919), p. 393.

repeated, in conformity with its laws, that it considers itself obligated to indemnify, if only to justify the opinion maintained by Mexico that neither juridical nor moral principles are derogated, when it is maintained that the collective interests must prevail over the interests of persons who are nationals or foreigners. Mexico has maintained that the so-called rights of man, among others, the right to property, with its modalities, are not principles of international law, but that their validity is derived from municipal law. The fact is not disregarded that the contrary opinion upheld by your Government has defenders, but it must be admitted that the point of view of Mexico, far from constituting an unusual theory, lacking substance and without a juridical basis, has in its turn the most solid support, namely, the renowned expositor of the Anglo-Saxon interpretations of international law, Oppenheim affirms the following in the last edition of his famous treatise published by Lauterpacht, in speaking of the rights of the individual, on pages 508 and 509 of the first volume: 'It is said that such rights include the right to existence, the right to protection of honor, of the family, of health, of liberty and of property, the right to exercise the religion of one's choice, the right of immigration and other similar rights, but those rights (they can only be municipal and not international rights) at present do not enjoy any guarantee at all in international law.' Mexico has seen with satisfaction that your Government approves its proposal not to demand special privileged treatment for its nationals, but a just and reasonable treatment in harmony with the generally recognized principles of international law. However, my Government does not differ from the opinion of that of Your Excellency, with respect to the fact that equality of treatment has been established to protect the rights of foreigners against the state, since, on the contrary, that principle was formulated precisely in defense of the weak states against the unjustified pretension of foreigners who, alleging supposed international laws, demanded a privileged position, has been in Latin America where there has been crystallized as an aspiration of the republics of this continent, the principle which has just been discussed. And it is the states which are economically weak that have found themselves obliged to take all possible precautions against foreign investors who, in exchange for producing some revenues to the treasury while they obtain profits which are at times fabulous, have become an obstacle to the very action of the government. It is true, as your Government affirms in the note to which I am replying, that the respect for property rights is recorded in the constitutions of all states of this continent, but it is also recorded that such right must undergo modifications or suspensions which the general interest, the basis of right itself, may demand. In such cases foreigners cannot consider themselves as immune from the modifications to which local legislation is subject. The opinion of

Latin America in this respect, has already been brilliantly expressed by the illustrious Argentine authority on international law, Calvo, who, using his indisputable authority, maintained in the classic treatise '294.—The very serious subject of the constant claims of the great European powers on the Governments of the American states is related to this question. All have been based on personal offenses, sometimes real and sometimes padded by their agents, always painted by them in vivid colors. And the rule that in more than one case the former have tried to impose on the latter, is that foreigners deserve greater consideration and greater respect and privileges than the natives themselves of the country in which they reside. This principle, the application of which is notoriously unjust and infringes the law of equality of states, and the consequences of which are essentially disturbing, do not constitute a juridical rule applicable in the international relations of those of Europe, and whenever it has been demanded by one the reply of the other has been absolutely in the negative. It had necessarily to be so, because in the contrary case, relatively weak peoples would be at the mercy of the powerful ones and the citizens of one country would have fewer rights and guarantees than the foreigners residing there.'<sup>48</sup>

After the foregoing approval of the opinion of Mexico with regard to the case under discussion, I shall proceed to set forth the point of view of my Government, in regard to the manner in which this matter may be settled, taking as a basis a practical arrangement.

In the letter of Under Secretary Mr. Sumner Welles, of June 29 last, mentioned in the note to which I am now replying, Your Excellency's Government proposed establishment of a previous deposit as the guarantee of payment for the expropriated lands. My Government considers this proposal unacceptable because it considers it incompatible with the good faith and mutual confidence which should govern the stipulations of an arrangement of this character. Moreover, Mexico, as it has always done, has duly paid in strict compliance with the conditions agreed upon (April 1934) in which our two Governments succeeded in fixing, by means of the 'Special Claims Commission' the terms of the pecuniary obligation to correspond to the damages caused by the revolution, whereby it is amply demonstrated how unjust is the proposal contained in the said letter of June 29.

With regard to future agrarian expropriations, I have to advise Your Excellency that my Government finds itself legally incapacitated to prevent the application of the agrarian law, for which reason it will limit itself in each case, to submitting to the consideration of the commissioners mentioned below the amount and the terms of the special indemnifications.

<sup>48</sup> Carlos Calvo, *Derecho Internacional Teórico y Práctico de Europa y América* (Paris, 1868), vol. I, section 294.

My Government has noted that Your Excellency's Government accepts, in order to solve the situation created, the proposal that the value of the expropriated lands as well as the terms of payment therefor, be submitted to a commission constituted by one representative of each party. In its turn my Government accepts that, in case the said representatives should not arrive at an agreement, a third representative chosen by the permanent commission then be designated, as established by the Gondra Pact, whose seat is Washington, and is composed of the three diplomatic agents who have been accredited there the longest. To terminate this note, I consider it pertinent to transcribe a few sentences uttered by the President of the Republic in his message to the Congress of the Union and which literally read as follows: 'Mexico, maintaining its points of view and respecting the aspects of divergence maintained by the Government of the United States, agrees to facilitate this arrangement, which practical sense has imposed, with a most sincere and friendly proposal to consider this discussion terminated, which fortunately has not disturbed the good relations between our Governments and our peoples. The continuation of this discussion would benefit only the interested and traditional enemies of any good understanding between our two Governments, as is demonstrated by the costly, violent and insidious campaign which is being carried on against Mexico in the United States and in which it is attempted to ignore that each country has different problems and different means of solving them and that only a lofty historical and social human comprehension could interpret the true sense of reciprocity which should govern a fruitful and sincere friendship between the nations, which is necessary to fulfill the superior obligation to be faithful to the pact of Inter-American Solidarity, Cooperation and Harmony, concluded among all the republics of this continent and always renewed with greater faith and decision not only for their own benefit, but that of the international community.'

I take pleasure in renewing to Your Excellency the assurance of my highest consideration, Eduardo Hay.["]

DANIELS

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812.52/8245

*Memorandum of Conversation, by the Secretary of State*

[WASHINGTON,] September 6, 1938.

The Mexican Ambassador called on his own request. He said that he had had two talks with President Cárdenas recently; that President Cárdenas is very desirous of clearing up the land claims, as they relate to American interests, growing out of the seizures during the past ten years; that President Cárdenas wants us to understand that they



intend virtually to refrain from any further American land expropriations in the meantime; and that they definitely plan to make payment "without fail" for both the Yaqui Valley and the other lands seized during the past ten years. The Ambassador then proceeded, with emphasis, to say that President Cárdenas would be willing to fix a limit of time in which these valuations should be made and payment likewise made; that in his, the Ambassador's opinion, the Mexican Government is now so intent on making settlement of all these land claims that no third commissioner will be necessary for the purpose of ascertaining valuation, time of payment, etc. The Ambassador seemed personally to feel very strongly that this opens the way to a settlement of the land claims within a definite time in the early future and with the certainty of payment. He frequently repeated his view that here for the first time was a chance for settlement of these claims and that he hoped we might see our way clear to act accordingly.

I then said to him that I had been greatly disappointed and in fact almost flabbergasted to see his Government in its last note enter into a lengthy argument challenging the doctrine of just compensation, whether based on legal, or the most equitable or other fair and just grounds, while at the same time championing the principle of confiscation. I then briefly referred to the fact that, after careful examination, the citations of supposed law against the doctrine of compensation were deemed wholly inapplicable; that I and the best lawyers in the Department had carefully examined each of them and found them wholly to fail to sustain the attack of his Government on the ancient principle of just compensation for property taken for public purposes. I said it would require his Government exactly one thousand years to convince my Government and, in my opinion, any other important government of the world, that there is any rule of law or of right or reason or justice, that would justify one government to take the property of an individual citizen of another government without accompanying the taking with satisfactory arrangements about payment. I emphasized that this principle of just compensation is embedded in the constitution of every nation of Latin America, as it is in the Constitution of the United States, and that in fact it has been written unequivocally in Article 27 of the Mexican Constitution without challenge, so far as I was advised, until President Cárdenas and his advisers in 1936 seem to have conceived the idea for the first time that confiscation might be substituted. I said that, so far as my information goes, the court decisions and all the leading legal authorities in Mexico stood for this doctrine in its unqualified form until this new step was taken in 1936; that no other nation is undertaking to carry out social reforms or any other public purposes by this policy of confiscation; and that it will prove utterly disastrous in the long run to those who do undertake to adopt it.

After pointing out that the citations in opposition to the doctrine of just compensation were entirely inapplicable and beside the point, I added that another example of very loose statement was the reference to the devaluation of gold by the United States Government and the charge that it was on the same principle as that of confiscation by the Mexican Government. I said there was no resemblance whatever; that, in the first place, this Government paid its citizens for their gold, and, in the second place, they received money that had even a larger purchasing power than the old gold dollar.

I then said that reports persist that the Government of Mexico plans a campaign, ending up at the Lima Conference,<sup>49</sup> in support of confiscation and against the principle of just compensation, and that, in my judgment, every nation except Mexico would be ready to answer "Nay" on that sort of revolutionary proposal; that in any event we and others who are undertaking to maintain this ancient principle would be prepared to defend it at any time, anywhere. The Ambassador commenced to make some defense on account of the merits of the social welfare program, and I soon interrupted him to express my surprise that he was disposed to champion confiscation, and I emphasized the point that we all alike agree as to the merits of social welfare programs and the uplifting of those who are in need of education and are in dire poverty, but it is the method of accomplishing these reforms that brings disagreement, or, in other words, whether such reforms shall be carried on by confiscation of other people's properties, or whether a government by sound and comprehensive systems of taxation and other wholesome constructive domestic policies will place its entire system of internal improvements and social and economic progress on a legal and just foundation. I said a failure to do the latter would in due time react most disastrously on the very authors of confiscation and the very people whom they were seeking to serve. I added that this was an unofficial, individual view of my own as a friend of Mexico, unrelated to any official conversation. I repeated the deep disappointment of this Government at the open championship of confiscation, to the most sweeping extent, by the Government of Mexico. I said that in its enthusiasm the Mexican Government seems in its recent note to claim the privilege of speaking for all of the Latin American nations on the same subject. I then inquired who had authorized his Government thus to assume to speak for all Latin American Governments and to imply that they would stand for confiscation generally. The Ambassador made no response to this. I said that this sort of propaganda, coupled with other reports coming out of Mexico about a campaign against "economic imperialism", is very discouraging to this Government in its anxiety to go to the utmost length in working out all problems between our two govern-

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<sup>49</sup> See pp. 1 ff.

ments in an amicable way. The Ambassador insisted that his Government would not carry this sort of an issue to Lima and added that he had been selected to head the delegation to that Conference and he expected to go to Mexico within another two weeks to make up his delegation. I congratulated him and expressed great satisfaction that he was to head the delegation, and then I stated I hoped this would mean that he would not be seriously interfered with by those who are overlooking all fundamentals in dealing with present problems, and added that it is too often the case that someone back in the home office plays havoc with the work of a fine delegation on such occasions. The Ambassador indicated that he thought he would not be thus hampered. He conveyed the idea that he would remain here until we decide on our action in relation to the last Mexican note. I said I was much interested in what President Cárdenas had said to him as he detailed it to me and that all phases of the note and extraneous and kindred questions existing between our two countries would be given full and careful consideration.

C[ORDELL] H[ULL]

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812.52/3260

*Memorandum of Conversation, by the Secretary of State*

[WASHINGTON,] September 10, 1938.

The Mexican Ambassador called on his own request. I soon discovered he had no information to offer to me, but that he came back to say he is remaining here, before going home, to see what we can work out in the way of progress in connection with the matters of controversy between our two Governments, especially as they relate to an understanding about agencies to value the lands seized during the past ten years and to agree on time and methods of both valuation and payment.

I first said to the Ambassador that this Government stands irrevocably and eternally on two or three basic ideas: one of them is that every sovereign nation possesses the most ample power to inaugurate and successfully carry out, in a lawful and fair and just manner, all social reforms and all other reforms called for by the welfare and progress of the country involved; another is that the doctrine of just compensation must at all hazards be maintained, and that this Government is obliged unhesitatingly to stand at all times against the abrogation in whole or in part of this historic and basic principle of law for the government of the relations between nations; that in maintaining this position my Government must resist in every possible way the alternative policy of confiscation—which means, to take the property of another by force with no thought or disposition to offer

the slightest compensation therefor. I said a careful examination of all the records and literature on the subject indicates that the Mexican Government is getting close onto Marxism or the Communistic basis, whether consciously or unconsciously. I took pains to add in that connection that any government has a right to formulate and pursue its own domestic policies, from a general standpoint; that the interest of my Government in the question of whether the Mexican Government is becoming Communistic is only to the extent that the policies and attitude of the Mexican Government in this respect might shed light on the vital issue existing between our two countries at this time, namely, the principle of just compensation versus confiscation, and so shed some light also on whether the Mexican Government seriously intends without delay to make satisfactory arrangements about the payment for the lands which have been seized during the past ten years, as intimated in its last note.

I said to the Ambassador that I did earnestly hope he would emphasize to his government the view that it has the power in a lawful manner to make all necessary reforms without resorting to confiscation; that any other kind of reforms will be short-lived and full of trouble, to say nothing of the great injury done Mexico in the minds of other nations; that it would be easily possible for the present Government by degrees to shape its course so as to converge back on the course of just compensation and lawful reforms. I added that, of course, I would not ask the Ambassador to give me his individual opinions about the merits of confiscation since he is here under instructions of his Government to represent its views. The Ambassador made no reply as to this but seemed to appreciate what I said. He stated that, in his judgment, his country had no purpose to adopt the Soviet policy, and he quoted President Cárdenas to that effect in a conversation of some four months ago; he also referred to the *ejido* policy as differing substantially from Sovietism. I said that, without any purpose to criticize and not speaking officially, the *ejido* might have functioned to some extent two, three, or four centuries ago, and that it is a great pity the Mexican Government does not reform that whole policy from the standpoint of the welfare and progress of its citizens.

I said to the Ambassador that except for the fact that the last note of his Government had injected a long list of citations in opposition to the doctrine of just compensation, all of which we consider entirely erroneous and inapplicable, and, in addition, had his Government not proclaimed a broader contention presumably in support of confiscation, there would be no particular occasion for this Government to send another note. I stated that my Government must leave no doubt in anyone's mind about its strong attitude in support of the principle of just compensation in every essential respect and its

lasting opposition to the doctrine of confiscation, and therefore that I was preparing a very brief note dealing with these additional contentions of his Government and then leaving open without conclusions or detailed comment the matter of a commission to ascertain the value of the lands and to agree on the question of payment; that he could say to his Government that these phases can be explored and developed by oral conversations, if his Government is so disposed. The Ambassador suggested that I put this in the note, but I replied that since his Government has been unwilling to put in writing a promise not to make further seizures and to define just what assurances we could have about payment, I feel that our note likewise should be silent on some of these phases, merely calling attention to the fact that in part the Mexican note has adopted the suggestion about a commission, but that we are not fully advised about the other phases which are very essential. I also said to the Ambassador that there would be no disposition on the part of this Government to enter into arrangements for a commission and conversations about valuations unless satisfactory assurances and arrangements in regard to payment should likewise accompany this other step; that we have been indulging in just that line of conversations for ten years with promises about payment which were never carried out; that I could not defend a repetition of that course either before the Congress or before the country; that I hoped he and his Government would understand we cannot consider entering on conversations unless we reach a satisfactory agreement in advance, both as to the general nature of the time in which valuations are to be satisfactorily made and also assurances as to the certainty of payment. I then added that these are matters which can be explored in preliminary conversations before the appointment of any commission. The Ambassador appeared to have nothing further to say to the contrary and I understood him to be acquiescent. I finally added that I would hope to get a note ready by the forepart of next week.

C[ORDELL] H[ULL]

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812.52/3315

*Memorandum of Conversation, by the Secretary of State*

[WASHINGTON,] September 20, 1938.

The Mexican Ambassador came in at my request. After some preliminaries, I said that I had asked him to come in in order that we might add a little more to some of the oral conversations we have been conducting from time to time in connection with the American-Mexican problems now pending. I proceeded first to speak of the chaotic condition in international relations in many parts of the world

and how deeply disappointed I feel not to have entirely satisfactory relations among the American Republics as an example to other nations.

I said I had in mind at present three outstanding points: that one relates to the question of whether our two governments shall continue the hammer and tongs discussions through exchange of notes, or, whether they shall be terminated so far as the present issue is concerned and efforts made through oral conversations to make some real progress with our problems; that I had prepared elaborate data in connection with a note of considerable length, with a view to continuing the hammer and tongs discussions but also with the strong conviction that they would soon estrange our two countries in every important way. I said that my Government would be glad to discontinue these long drawn out notes, for the reason that they hurt both countries, but, in my opinion, hurt Mexico most; that I would hope then for oral conversations to begin looking towards progress in dealing with the problems involved.

I then said that the Government of Mexico had introduced two new points in its last reply to the American note, and I have considered a brief note, of probably less than two pages, acknowledging this last Mexican note, stating that the single outstanding issue is the principle of just compensation versus the policy of confiscation and then making not an argument but a simple statement in rebuttal. I then referred to the other brief recitals in the proposed note relating to arbitration and a commission for valuation purposes. After doing so I said, "You could inquire of your Government whether it prefers that the long argumentative notes, such as I am referring to, shall be continued further, or, whether the Mexican Government would be willing for the matter to end with this brief simple acknowledgement of two pages or less." I said that I felt this would determine more or less the interest of the Mexican Government in moving directly towards some settlement through oral conversations.

I then said I would like to know definitely just what the Mexican Government would do about discontinuing further seizures. The Ambassador replied that, while the Government could not make any public statement or go on record about the matter, it would agree not to make any more seizures (nothing was said about whether land or otherwise), but that it would be necessary to make about four exceptions which would comprise three small tracts and one large tract; that these could be valued and arrangements about payment made along with the other valuations and arrangements for payment. I said that his statement was somewhat vague as to when and in what amounts the Mexican Government would be prepared to make payment on the lands which the proposed commission would value, and before sending a man to Mexico to discuss valuations and payments

I would like to know something a little more definite as to the certainty of real plans to make payment; that I would not want to send a man to Mexico to sit with a commission to value these properties for six months and then ascertain that there were no real possibilities of payment. The Ambassador said that President Cárdenas was willing to agree to a limitation of six months in which the valuations should be made, and then the Ambassador added himself that the commissioners could within the first thirty days discuss and decide and dispose of the entire question of time, amount, and method of payment, so that if their efforts should fail in this respect my representative on the commission would not be detained six months but only one month. The Ambassador spoke about calling President Cárdenas for further elaboration of some of these matters. I then suggested that he might care to call him tomorrow on the two points relating to more information as to time, amounts, and method of payment, and also give him the substance of the proposed short note which I would be disposed to put out now instead of a long argumentative note in the event it is agreeable to close the exchange of notes. The Ambassador said he would be quite glad to take this step and communicate with me further.

C[ORDELL] H[ULL]

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812.52/3354

*Memorandum of Conversation, by the Secretary of State*

[WASHINGTON,] September 26, 1938.

The Mexican Ambassador came in at my request. He had agreed when he last called to communicate with President Cárdenas on two points and report back to me. One point related to whether his Government could give more substantial information and assurances in regard to time and amount of payments for lands seized during the past ten years, and the other point related to the sending of a brief note I had acquainted him with and thereafter the discontinuance of note writing, with oral conversations substituted. The Ambassador gave no encouragement about the note phase but suggested that his Government be disposed to consider making a reply. He said that his Government was seriously desirous of making payment for the lands seized during the past ten years; that they would be disposed to have a commission proceed very soon with the task of valuing the lands and agreeing as to time and amount of payment; that they would agree that the valuation work should be completed within six months; and that his Government would put in its budget each year, beginning with next year, not less than \$500,000, to be applied on the land payments as and when they were valued by the commission.

I replied that this would require a great many years. The Ambassador then remarked that he did not think these lands would be valued at more than two or three million dollars, and, therefore, it would not take so much time for payment. He said that his Government would be willing to adopt a percentage basis which would determine the amount of payment each year. The inference was that this might make payments certain within a very few years. The Ambassador said that his Government could not agree to cease further seizures of lands, although he had said to me on his last visit that it could thus agree orally except as to three small tracts and one large tract which were then in process of being taken over; that it would be agreeable with his Government, however, to have such lands valued promptly and the amount due to be placed in the first budget along with amounts due for lands seized during the past ten years. I said that the only trouble with the proposition was that his Government could and might easily seize properties more rapidly than they would pay off the amounts due for seizures during the past ten years, with the result that the Mexican Government would be getting deeper in debt as it expanded its seizures. The Ambassador had no particular comment on this phase. He did not suggest any way of guarding against this sort of possible development either as to ceasing seizures or making more certain payment for seizures heretofore made. I said that his reply was somewhat discouraging and disappointing; that I would confer with my associates and if we should see any basis for progress in dealing with the matters of difference between the two governments I would advise him.

C[ORDELL] H[ULL]

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812.52/3447

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 7591

MEXICO, October 26, 1938.

[Received October 28.]

SIR: Referring to my despatch 7589 of October 26, 1938,<sup>50</sup> I have the honor to report that in pursuance of the request of President Cárdenas I called at the National Palace this morning. He expressed himself as very hopeful of an agreement and stated his earnest purpose to make as large annual payments as the economic condition of the Government makes possible. The fact that he asked me to call on what he regards as important shows his interest in reaching a settlement.

I am enclosing a memorandum giving the gist of a conversation lasting half an hour, together with a copy and translation of the note

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<sup>50</sup> Not printed.



he gave me <sup>51</sup> summarizing his proposal, and a copy of the memorandum I gave to him <sup>51</sup> about Presidential Resolutions published in the *Diario Oficial* since September 1, 1938, affecting American-owned lands. The report of my interview with President Cárdenas indicates the representations I made and his pledge to end dotations while negotiations are in progress.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure]

*Memorandum of Conversation, by the Ambassador in Mexico  
(Daniels)*

[MEXICO,] October 26, 1938—11 a. m.

Accompanied by my Secretary, Mr. Aguirre, I called on President Cárdenas at the National Palace at 11 o'clock this morning. My audience with the President was by his request, which was communicated to me last night through a letter to Foreign Minister Hay, shown to me by the latter.

Upon my arrival at the National Palace an Aide of the President met me on the ground floor and escorted me to the President's office. After exchanging friendly greetings, the President began by expressing his apologies for having disturbed me last night and asking me to call to see him this morning; he said that only because of the seriousness of the situation, and only as it involved matters affecting pending negotiations between our two countries, had he asked to talk with me—realizing, he said, my willingness at all times to promote understanding between our two countries.

The President then related the gist of the conversation, telephoned to him, which the Mexican Ambassador had yesterday in Washington with Undersecretary Welles, who, he said, had proposed to his Ambassador that the Mexican Government pay one million dollars in 1939 toward the settlement of the agrarian land controversy, and the balance in four equal annual installments. The President went on to explain that this was very difficult for Mexico to do under its present economic possibilities; that since his Government did not know the exact amount which our Government was obligating him to pay, and since this total amount would not be fully known until after the two Commissioners had determined the full amount, his Government could not possibly commit itself to pay the one million dollars in 1939 and the balance in four annual installments.

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<sup>51</sup> Not printed.

He proposed that Mexico pay one million dollars in 1939, one million in 1940, one million in 1941, and so on until the obligation—that the Commissioners should fix within six months—had been discharged.

Another feature of the proposed settlement that was disturbing, he said, was that he could not seek nor obtain the approval of Congress unless he could state to the members of Congress the exact amount of agrarian claims which he had agreed to pay the American Government. He said that if he submitted the proposed settlement to his Congress regarding the four annual installments of the balance due after payment of the one million dollars in 1939, and could not inform the members thereof the exact amount, the Congress would not authorize an unknown sum, particularly since he knew full well that he could not get authority for payment beyond the economic possibilities of his country. On the other hand, the President said, if he could go to Congress and tell them that his Government would pay one million dollars annually until the obligation had been discharged, he felt quite confident that he would secure its approval.

I then asked the President if I was to understand correctly that his proposal was that he would pay one million dollars in 1939 and the balance in similar annual installments until the full amount of the agrarian land claims of American citizens had been discharged. He said that was correct. The President then went over to his desk and he handed me a copy of his proposal, which he said would enable me to understand clearly his proposition. I thanked him and he gave me the memorandum which is appended hereto.<sup>52</sup>

I took with me to the Presidency a memorandum giving a list of Presidential Resolutions dotating land belonging to Americans which had been published in the *Diario Oficial* since September 1, 1938. I called to his attention that some of these were for land dotations which had been made the previous year, but were just now being published in the *Diario Oficial*; and said that publication at this time when negotiations were going on in Washington in an endeavor to reach some settlement over the lands expropriated from American citizens was not looked upon with great favor and hampered negotiations. The President looked very surprised and said that he would immediately call the Ministry of Gobernación and instruct them to suspend publication of all such cases, adding: "I will instruct the Minister to cease publication of any further agrarian cases affecting American citizens until after negotiations in Washington have terminated."

I then said to the President that inasmuch as efforts were being made to reach an amicable settlement of the land controversy and in order not to hamper the present negotiations, I hoped it would be possible for his Government to stop further expropriation or dotation of American lands. The President thought for a brief moment and

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<sup>52</sup> Not printed.

said: "Mr. Ambassador, I will give immediate instructions to the agrarian authorities to cease any further expropriation of American lands while negotiations are in progress."

He then brought up the proposed expropriation of the United Sugar Company properties in Los Mochis, Sinaloa. He said: "Of course I was under the impression and thought the Department of State understood, as I had understood, that the sugar company had agreed to the distribution of the land to the *campesinos* on the same basis as the Atencingo property (of William O. Jenkins)." But when General Mugica<sup>53</sup> communicated my wishes to the President the other day he immediately suspended the proceedings that were going on. He said that it was his (the President's) understanding that the officials of the company had agreed to pay the *campesinos*, for purposes of harvesting the sugar crop, 700,000 pesos; and that the Mexican Government would make up the difference of 500,000 pesos: a total of 1,200,000 pesos, which was the cost of harvesting this year's crop; but that apparently the officials told the Mexican Government one thing and told the American Government another. He seemed rather annoyed at the situation that had arisen contrary to his understanding. Everything there has been suspended.

When I took leave of the President, he said he was most anxious that the two Governments should come to an amicable agreement and that his Government was ready to agree to as large a payment as the financial condition of his country would permit. He asked me to communicate any information I might have for him regarding the matters he had discussed with me.

I told the President that I would get in touch with the State Department and convey to him information concerning the attitude of Washington towards his proposals. I told him that after receiving the note last night I had talked to Mr. Duggan of the State Department, who readily granted his request for postponement.

President Cárdenas said he would be glad if I would convey his high regards to President Roosevelt, and assure him that he followed his progressive policies with admiration.

J[OSEPHUS] D[ANIELS]

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812.52/3449 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, November 2, 1938—5 p. m.

197. Your 420, October 29, noon.<sup>54</sup> The Mexican Ambassador was informed last night that this Government would agree to an under-

<sup>53</sup> Francisco J. Mugica, Mexican Minister for Communications.

<sup>54</sup> Not printed.

standing between the two Governments similar in text to that proposed to the Ambassador on October 19, but modified so that while the Government of Mexico would still be obligated to make its first payment of one million dollars at the termination of a period of 6 months from the time the commission commences its work, the amount of the further annual payments would be agreed upon by the two Governments after the completion of the valuation of the properties by the commission, taking as a prime factor in the reaching of such an agreement the ability of the Government of Mexico to pay. The Government of Mexico would further agree that the annual payments to be made after 1939 would in no event be less than one million dollars yearly.

The text of the proposed agreement<sup>55</sup> has been handed to the Mexican Ambassador and has been transmitted by him to President Cárdenas directly by airmail today. It is his hope that the exchange of notes may take place within the next 5 days.

The above is sent you solely for your information. Since the Mexican Ambassador here is awaiting final confirmation from President Cárdenas direct, there is no need for you to make any representations in the matter.

HULL

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812.52/3492b

*The Secretary of State to the Mexican Ambassador (Castillo Nájera)*

WASHINGTON, November 9, 1938.

EXCELLENCY: I have the honor to acknowledge the receipt of the note addressed by your Government on September 1 to Ambassador Daniels.

Careful examination of that note discloses no grounds that would justify this Government in modifying the position set forth at length in my notes to you dated July 21 and August 22, 1938. My Government must insist that the recognized rules of law and equity require the prompt payment of just compensation for property that may be expropriated. Therefore, inasmuch as my Government remains convinced of the basic soundness of its position, buttressed as it is by law and justice, and in view of the scope and content of our recent conversations, in the course of which you informed me of the policy of your Government and of the desire of the Government of Mexico, which is similar to the desire of the Government of the United States, to settle all difficulties which may arise between the two Governments in a spirit of friendship and of equity, further discussion of the note under reference seems unnecessary.

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<sup>55</sup> For final texts of notes exchanged, dated November 9 and 12, see *infra* and p. 717.

My Government has a particular desire to safeguard friendship with Mexico not only because Mexico is one of its nearest neighbors but on account of the many ways in which ever improving relations, in the fullest sense, between the two countries could be complementary and mutually beneficial. It has, therefore, spared no effort to arrive at prompt, friendly and satisfactory solutions of problems as they arose. It was in this spirit that last November my Government urged, in accordance with the principle of just compensation, the desirability of a comprehensive agreement providing for the compensation of the American citizens whose properties had been seized by the Mexican Government. It is in that same spirit that I have given every attention to the proposals of your Government which you recently communicated to me. Based upon them, my Government would be willing to agree to the plan proposed hereafter which, if acceptable to your Government, would resolve at once the present controversy, in so far as it relates to compensation for American-owned agrarian properties seized since August 30, 1927, that if continued must seriously impair the friendly relations between the two countries. It is also in this same spirit that I earnestly commend it to the favorable consideration of your Government.

One: Both our Governments are in accord that the values of the American-owned agrarian properties expropriated since August 30, 1927, be determined by a Commission composed of one representative of each of our Governments, and in case of disagreement, by a third person selected by the Permanent Commission with seat at Washington, as established by the so-called Gondra Treaty.

Two: My Government proposes (*a*) that the two commissioners be appointed by their respective Governments at once; (*b*) that they hold their first meeting in the City of Mexico on the first day of December 1938; (*c*) that each Government bear the entire expense of the salaries, maintenance, transportation, and incidentals of its commissioner and his staff and that any expense incurred jointly, as for instance in connection with airplane travel, be shared equally.

Three: My Government believes it important, and understands that your Government is in accord in this regard, that a time limit be established for the completion of the work of the commissioners. It is therefore proposed that the commissioners be instructed that they must complete the determinations of value by not later than May 31, 1939. If during the course of the deliberations of the two commissioners they are unable to reach a common finding upon the matters submitted to them for their joint determination, my Government proposes that the Permanent Commission at Washington be requested to appoint immediately the third commissioner in order that he may re-

solve the matters upon which the two Governments' commissioners are unable to agree. It is further proposed that in case of disagreement in any particular case, the representative appointed by the Permanent Commission be requested to render his award within not more than two months from the time the case is submitted to him. The salaries and expenses of the third commissioner will be defrayed in equal proportions by the two Governments.

Four: The adequate and effective measure of compensation to be paid in each case shall be determined in the usual manner by taking into consideration, among other pertinent factors, the establishment of the nationality of the claimant, the legitimacy of his title, the just value of the property expropriated, the fair return from the property of which claimant has been deprived between the time of expropriation and the time of receiving compensation, as well as such other facts as in the opinion of the commissioners should be taken into account in reaching a determination as to compensation.

Five: It is my understanding that the Mexican Government will pay the sum of \$1,000,000 United States currency as first payment of the idemnities to be determined by the Commission to which this note refers, and that this payment will be made to the Government of the United States on or before May 31, 1939.

It is my further understanding that immediately subsequent to the determination by the Commission of the final valuation, in accordance with the procedure indicated in numbered paragraph Four of this note, of American-owned agrarian properties as defined in numbered paragraph One, the two Governments will reach an agreement as to the amounts to be paid to the Government of the United States by the Government of Mexico annually for the account of such claims in the years subsequent to the year 1939. As the basis for such agreement there will be taken into consideration such statement of its ability to pay as may be demonstrated by the Government of Mexico. The Government of Mexico, I understand, agrees that the annual payments to be made by it to the Government of the United States subsequent to the year 1939 for the account of these claims will in no event be less than \$1,000,000 United States currency, and that such payments will be made on June 30 of the corresponding year.

In view of our recent conversations I have every confidence that the foregoing proposals will prove acceptable to Your Excellency's Government. I shall await with interest Your Excellency's response to the suggestions made.

Accept [etc.]

CORDELL HULL

812.52/3496

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 7667

MEXICO, November 12, 1938.

[Received November 14.]

SIR: This morning at eleven o'clock I called by appointment at the Foreign Office and was handed Mexico's note concerning the payment for lands of American citizens expropriated under the agrarian policy of this country. After handing me the note, General Hay went over the few changes in the text, saying that they made no change whatever in the agreements already reached. As to the changes made, he said that at 10:30 he had called Ambassador Castillo Nájera by telephone and had given him the exact words of the changes made.

The Minister said that he was highly pleased that an understanding had been reached and seemed very happy about it.

He said he would not give out the text until this (Saturday) afternoon at three o'clock and would give instructions that it be released for publication in the Sunday morning papers.

I enclose the Spanish text of the note handed to me this morning by General Hay, addressed to me, and the text of the translation—revised from the Department's translation in only a few minor details of phraseology.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure—Translation]

*The Mexican Minister for Foreign Affairs (Hay) to the American Ambassador (Daniels)*

MEXICO, November 12, 1938.

MR. AMBASSADOR: I have the honor to acknowledge receipt of the note dated November 9, 1938 addressed by His Excellency Secretary of State Cordell Hull to the Ambassador of Mexico in the United States of America, Dr. Francisco Castillo Nájera, in which the Government of Your Excellency, while maintaining its opinion that the recognized principles of law and equity require the immediate payment of just compensation for expropriated properties, makes known its readiness to agree to a plan which, based on the proposals of my Government, may apply to the consideration and payment of agrarian expropriations (*afectaciones*) subsequent to 1927.

The Government of Mexico, in its turn, while reaffirming its conviction that it has not acted contrary to the rules and principles of International Law, of justice and equity, by the enactment and appli-

cation of its Agrarian Legislation, is in agreement with the plan presented and takes pleasure in recognizing that the sentiments of cordial friendship which unite our two countries have in the end prevailed over differences of a technical and juridical order.

As was proposed in its Note of August 3 of the current year, my Government agrees that the value of the expropriated lands shall be established by a commission consisting of a representative of each Government, also that cases of disagreement between these representatives shall be decided by a third person designated by the Permanent Commission, established by the Gondra Pact, which has its seat in Washington, notwithstanding the fact that, in this instance, it is not a matter of an investigating commission, an express function in the said pact, of the commission referred to.

It agrees, likewise in conformity with its original intention, that the representatives of the two Governments shall be immediately designated and that their first meeting shall take place in the City of Mexico on the first day of December of the present year. Outlays for emoluments, travel and other expenditures, both of the representatives and of the persons assisting them in their work, shall be defrayed by the respective Governments. The two Governments shall each pay one half of the expenses incurred jointly.

Likewise, the emoluments which are to be paid to the third person referred to shall be shared equally, as proposed by your Government, by Mexico and the United States.

My Government manifests, expressly, that it agrees that the representatives designated be instructed to the effect that their work of evaluation be concluded in May 1939,<sup>56</sup> and that the cases of disagreement be submitted to the consideration of the third person, who will likewise be requested to render his decision within a term of not more than two months, counting from the date on which his intervention has been requested.

The Government of Mexico understands that the commissioners, in proceeding to make the respective evaluation, shall take into account, among other pertinent facts, the establishment of the nationality of the claimant, the legality of his title to enter a claim and the last fiscal valuation prior to the expropriation.

Respecting the manner of payment of the corresponding indemnifications, my Government will pay the amount of one million dollars in the month of May 1939.

My Government is agreed that, once the representatives fix the amount of the indemnifications, the Governments shall agree upon the annual amount which the Government of Mexico shall pay to that of

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<sup>56</sup> By an exchange of notes dated April 17 and 18, 1939, the time limit was extended; Department of State Executive Agreement Series No. 158, or 53 Stat. 2442.



the United States, in the years subsequent to 1939, on the claims in question. In the determination of the said annual payments, the economic possibilities of Mexico shall be taken into account. My Government agrees, forthwith, that the annual amounts which must be paid to the United States Government shall not be less than one million dollars, United States currency, and, lastly, my Government is in agreement that the payments be made on the 30th day of June of each year.

The Government of Mexico deems necessary to have it understood that the decisions reached by the representatives designated, shall in no case extend beyond evaluation of the lands expropriated and the modalities of payment of the amount determined; that they shall not constitute a precedent, in any case nor for any reason; neither shall they decide the juridical principles maintained by the two Governments and applicable to the matter in question.

The Government of Mexico is pleased to recognize that, in formalizing this arrangement, it has been able, on the one hand, to show, as was expressed in the note to which I reply, its especial desire to safeguard its friendship with the United States, because of the mutual benefits which this reciprocal sentiment represents for both countries, and to carry out, on the other hand, the mandates of the Agrarian Legislation, an expression of our traditional policy, which, on being interpreted by the President of the Republic, was supported, formally, by the National Legislative Body, in the reply given to the message from the Executive by the President of the Congress of the Union, at the opening of the period of sessions on September 1, last.

I avail myself [etc.]

EDUARDO HAY

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812.52/3598

*Press Release Issued by the Department of State, December 14, 1938*

The Department of State is endeavoring to extend all possible assistance to American nationals who desire to file claims against the Government of Mexico on account of the expropriation of agrarian properties in that country since August 30, 1927. This Government's note of November 9, 1938, and the reply of the Mexican Government dated November 12, 1938, effected an arrangement providing for the settlement of such claims. All American nationals whose properties in Mexico have been expropriated since the above-mentioned date should promptly communicate the facts of their respective cases to the Department of State, if they have not already received from the Department or from a consular officer of the United States, letters indicating the manner in which their claims should be prepared.

REPRESENTATIONS TO THE MEXICAN GOVERNMENT REGARDING  
THE EXPROPRIATION OF OIL PROPERTIES OF AMERICAN COM-  
PANIES WITHOUT PROVIDING FOR ADEQUATE COMPENSATION<sup>57</sup>

812.5045/629 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, January 20, 1938—1 a. m.

[Received 9:40 a. m.]

15. The President of the Federal Board of Conciliation and Arbitration<sup>58</sup> this evening ordered the oil companies to comply with the decision of December 18th [1937].<sup>59</sup> This order issued because of failure of oil companies to post bond within 5-day period will become effective immediately upon ratification to the oil companies which will be expected to comply with the increased wage scale by next week.

The Department of Labor this evening called upon all Mexican technicians immediately to register in order to be available to replace any foreign technicians who might leave the country thereby causing disruption in any industry. It states that this measure is not intended to incite nationalistic feeling but to safeguard the foundation of Mexican industry which cannot remain secure as long as the direction of the national industries remains in the hands of foreign technicians for whom there are no substitutes.

Full report air mail.

DANIELS

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812.5045/630 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, January 20, 1938—noon.

[Received 4:20 p. m.]

16. In two conversations with Suarez<sup>60</sup> he assured me he was doing all he could to secure an agreement in the oil wage controversy. In the first he felt confident an arrangement mutually satisfactory would be reached. Yesterday at 1 o'clock, I had long conference. He then

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<sup>57</sup> For previous correspondence, see *Foreign Relations*, 1937, vol. v, pp. 644 ff. See also section entitled "Representations against further expropriation by the Mexican Government of lands owned by American citizens until authorization for payment be made and exchange of notes providing for the settlement of claims arising therefrom," *ante*, pp. 657 ff.

<sup>58</sup> Gustavo Corona.

<sup>59</sup> Award rendered by the Federal Board of Conciliation and Arbitration, Mexico: *Mexico's Oil, a Compilation of Official Documents in the Conflict of Economic Order in the Petroleum Industry, with an Introduction Summarizing Its Causes and Consequences* (Mexico, 1940), pp. 697 ff. The award approved an increase of 26,000,000 pesos in oil workers' wages.

<sup>60</sup> Eduardo Suarez, Mexican Minister for Finance.

said three offers had been made to Mr. Armstrong<sup>61</sup> as to bond but neither had been accepted. He expressed the belief that the oil company representative should agree to making the 3 million peso bond, even though the letter of the law did not permit release from the full 7 million peso if the oil men lost in a final decision. He said he had never known insistence on more than the sum fixed in the bond even though liability could not be limited. Oil men said they preferred to be forced to liability for the large amount than to agree to a course which they felt would be imposed if litigation went against them and they were unlikely to consent in a formal document to the attachment of all their property if the decision was adverse to them. They said neither of the three propositions offered protected them from the full wage finding and if they accepted either they would be consenting to a situation that might arise and which they could not meet. At 2 o'clock he informed me that he had an appointment with Armstrong at 4. If he knew yesterday was the dead line for making the bond he did not give me that information. Armstrong has not called at the Embassy but sent word yesterday that he would do so later. I will see Suarez and Hay<sup>62</sup> today both about oil and tariff and wire result. Neither Embassy nor Commercial Attaché had any intimation of any tariff changes until they were published.

DANIELS

812.5045/651 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, February 24, 1938—7 p. m.  
[Received February 25—1:40 a. m.]

34. Beteta<sup>63</sup> told Boal<sup>64</sup> today that Castillo Nájera<sup>65</sup> had just telephoned that he had had a talk with Armstrong, that he felt that Armstrong had not realized when he was here how far the Government would be willing to go to meet the petroleum companies on other points if they would agree to pay 26,000,000 pesos annually specified in the award. Castillo Nájera had some hope that Armstrong would return to Mexico City immediately to discuss the situation further with the Government in the hope of finding an adjustment. Beteta was much alarmed over the situation which would follow a Supreme Court decision upholding the Labor Board's award and plea of oil men to work under it. He feared that the Government to call forth the neces-

<sup>61</sup> Thomas R. Armstrong, of the Standard Oil Co. of New Jersey, representative of all major United States oil companies in discussions with the Mexican Government.

<sup>62</sup> Eduardo Hay, Mexican Minister for Foreign Affairs.

<sup>63</sup> Ramón Beteta, Mexican Under Secretary for Foreign Affairs.

<sup>64</sup> Pierre de L. Boal, Counselor of Embassy in Mexico.

<sup>65</sup> Mexican Ambassador in the United States.

sary sacrifices from the petroleum workers and others if it took over the oil industry would necessarily eventuate in a campaign against foreign capital. He said that he was going immediately to try to see the President and convey Castillo Nájera's message and to urge that the Supreme Court decision be delayed sufficiently to permit of further discussions with Armstrong.

Messrs. Anderson,<sup>66</sup> Tschudin,<sup>67</sup> Beckwith,<sup>68</sup> Wilkinson,<sup>69</sup> and Cabanas<sup>70</sup> representing the American Agency companies in Mexico called upon me this afternoon to lodge formal protest against what they term to be prejudgment of their case before the Supreme Court basing their protest on the spirit of President Cárdenas' statements regarding the oil controversy and the companies in his speech at the meeting of the CTM<sup>71</sup> this morning. They say this speech indicates that justice will be denied them. I suggested that they should make every possible concession to avoid an impasse. After this they discussed the general situation with me making it clear that they had no intention of acceding to the 26 million figure, first, because they thought that they could not do so, second, because they feel it would simply be used as leverage to try to obtain further concessions and would not lead to an adjustment of the other questions. I told them without using any names except that of Armstrong of what had been learned from Castillo Nájera through Beteta. They said they understood Armstrong was leaving for Venezuela and had no intention of coming to Mexico City. They were obviously unfavorable to his return here but they said they would be willing to discuss with the Government any plans for solution which did not involve a previous agreement by them to the 26 million.

DANIELS

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812.5045/652: Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, February 25, 1938—noon.

[Received 4: 50 p. m.]

35. We learn from Beteta that last night he had a long conversation with the President regarding the oil situation. Beteta reports that the President feels that matter has now gone too far to admit of any adjustment prior to the Supreme Court decision and that he should

<sup>66</sup> L. L. Anderson, Standard Oil Co. of New Jersey.

<sup>67</sup> W. G. Tschudin, Pierce-Sinclair Oil Co.

<sup>68</sup> Palmer Beckwith, Richmond Petroleum Co. of Mexico.

<sup>69</sup> W. W. Wilkinson, California Standard Oil Co. of Mexico.

<sup>70</sup> Of Pierce-Sinclair Oil Co.

<sup>71</sup> Confederación de Trabajadores Mexicanos (Confederation of Workers of Mexico).

take no further responsibility for settlement now but leave matters entirely in the hands of the Court.

DANIELS

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812.5045/662 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, March 4, 1938—1 p. m.  
[Received 6 : 43 p. m.]

40. My telegram No. 39 of March 3, 1 p. m.<sup>72</sup> Notification of the Supreme Court decision <sup>73</sup> was made to the companies last night and the Labor Board has given them until noon, Monday, March 7, 1938 to comply with the decision. At that time the question of wages at the increased rate from January 1, 1938 will arise and also the question of the application of the work provisions of the award including the 40-hour week. It is conceivable that there might be some delay with regard to the payment of the wages from January 1 on the basis of calculation as has been the case with regard to the strike wages for last year. If the companies refuse to grant the 40-hour week on Monday they may provide the workers here and in other countries with a strong talking point. The companies offered to grant the 40-hour week as part of one of their previous offers to meet the situation; however, the entire offer of which the 40-hour week was only one item was rejected by the Syndicate of Petroleum Workers.

Some of the companies' managers and officials here anticipate rioting and possibly bloodshed in the oil fields next week.

We have mentioned this fear to Licenciado Beteta today who said that he anticipated no disorders but would take the precaution of mentioning it to the President.

DANIELS

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812.5045/686

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 6239

MEXICO, March 11, 1938.  
[Received March 16.]

SIR: In my weekly call at the Foreign Office yesterday I expressed to General Hay my earnest hope that a way would be found to prevent the threatened impasse between the oil producers and the workers in the oil fields. He said his Government had done everything it could do consistent with the sovereign rights of his country and he was sure no independent, self-respecting country could do more. He thinks

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<sup>72</sup> Not printed.

<sup>73</sup> Mexico, *Mexico's Oil*, pp. 847 ff.

the President went a long way toward adjustment when he guaranteed to the oil producers that the increase in wages would under no circumstances exceed the 26,300,000 pesos and that a Mixed Commission would decide upon the administrative points to which the operators objected.

I expressed the opinion, as I had done often before, that an impasse would not only be bad for the oil producers and the oil workers, but that it would be injurious to the stable conditions in Mexico and disturbing to relations with other countries. He replied: "It is not our fault. We have done everything we could consistent with our sovereignty."

Respectfully yours,

JOSEPHUS DANIELS

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812.5045/691 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, March 16, 1938—7 p. m.

[Received March 17—12: 15 a. m.]

52. According to this afternoon's newspapers the President of the Federal Board of Conciliation and Arbitration made the following statement at noon today:

"In view of the request of the Syndicate of Petroleum Workers of March 15, 1938, asking that the petroleum companies be declared to be in 'rebeldia' if they do not carry out the decision of group 7 of the Federal Board of Conciliation and Arbitration and since such companies have refused such compliance I hold the 'rebeldia' of the companies to be manifest."

The British Minister in the company of Licenciado Beteta saw the President today. After a discussion of the whole situation the President authorized Licenciado Beteta to act as his representative in endeavoring to bring the representatives of the oil companies and of the syndicates together to try to reach an adjustment.

The President suggested that as a basis of adjustment the companies withdraw the statement they made yesterday that they were unable to comply with the award and substitute for it a statement that they will comply with the increase of the 26,300,000 peso maximum provided the administrative clauses can be modified to meet their needs.

Aguila<sup>74</sup> representatives then went into conference with representatives of the American companies in an effort to persuade the latter to agree to a renewal of the discussions with the labor syndicates.

The representatives of the American companies have just called upon me. You may recall that when the American oil executives came to see

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<sup>74</sup> Compañía Mexicana de Petróleo "El Agulla," S. A., subsidiary of the Royal Dutch Shell.

me last week I suggested that they strain a point and if possible offer to pay the 26,300,000 pesos on condition that the administrative clauses be adjusted. I told them at that time that I did not believe the President would accept anything less. They then declared it would be impossible to pay that increase and they would not act on my suggestion. In today's meeting they said that after conferences with the *Aguila* they had decided to present a statement along the following lines:

"With reference to the 'escrito' presented to the Labor Board on the 15th instant the undersigned companies desire to make clear the fact that they are prepared to agree to increase their total labor costs up to the sum of 26,300,000 pesos which was mentioned in the decision of the Labor Board of December 18 by increasing the *tabulador* [schedule of pay] of the attached contract by a percentage now being calculated based precisely on the claims of workmen by names which were submitted by the companies in the *Oferta Patronal* [offer of the employers].

The companies are unable to accept the administrative and other clauses laid down in the *laudo* but are prepared to sign a contract as per copy enclosed in which the aforementioned increase is embodied."

The representatives of the *Aguila* and the Counselor of the British Legation have now gone to see Licenciado Beteta to discuss this draft with him and to see whether a further meeting between the companies' representatives and the syndicate leaders can be arranged for the purpose of discussing this proposal.

The representatives of the American companies told me today that on March 11, 1938, in a confidential direct meeting with the executive committee of the syndicates a representative of the companies had offered payment of the 26,300,000 provided the administrative clauses of the award could be adjusted and that this offer had been rejected by the executive committee of the syndicates without discussion.

DANIELS

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812.6363/3092: Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, March 19, 1938—4 p. m.

[Received 10:39 p. m.]

58. Referring to my telegram No. 55, March 18, 11 p. m.<sup>75</sup> Expropriation decree issued this morning<sup>76</sup> against all of the properties of the following companies: *Aguila*, *Naviera*, *San Ricardo*, *Naviera de San Cristobal*, *Huasteca*, *Sinclair Pierce*, *Mexican Sinclair*, *Stanford Penn-Mex*, *Richmond, California of Mexico*, *Agwi*, *Imperio*,

<sup>75</sup> Not printed.

<sup>76</sup> Mexico, *Diario Oficial*, March 19, 1938.

Consolidated, Sabalo, Vapores San Antonio, Clarita, Cacalil to the extent necessary in the judgment of the Minister of National Economy for the discovery, production, conveyance, storage, relationship and distribution of the production of the petroleum industry. The decree is effective immediately.

Decree states that the Minister of Finance will pay a corresponding indemnity in accordance with the provisions of article 27 of the Constitution<sup>77</sup> and articles 10 and 20 of the Law of Expropriation<sup>78</sup> in cash within a period of not to exceed 10 years; that the funds for payment will be taken from a percentage to be subsequently determined of the production of petroleum from the properties expropriated. Expropriation is based on the "companies' refusal to accept the award" which "brought about as a necessary consequence the application of fraction 21 of article 23 of the Constitution of the Republic in the sense that the respective authority should declare broken the labor contracts derived from the award mentioned." It is also based on consequent inevitable "total suspension of activities of the petroleum industry" and necessity for the national economy to prevent such suspension. Text of the decree has been forwarded this morning by air mail.

Amending expropriation does not cover the Mexican Petroleum Company of California; Transcontinental Petroleum Company; Tuxpam Petroleum Company; Tamiahuha Petroleum Company; Minerva Petroleum Company; and possibly one or two other smaller companies. The above are American companies owning properties but have no employees as all their operations have been a Huasteca company<sup>79</sup> service. They own no pipe lines or refineries. Production from their properties amounts to about 12,500 barrels per day.

The decree does not expropriate the Ulysses Petroleum Company which is an American company owning all service stations and bulk plants handling Huasteca production. Gulf Oil Company was not expropriated.

The companies expropriated expect to enter *amparo* proceedings<sup>80</sup> promptly with no hope of practical results.

The Aguila Company has brought three airplane loads of wives and children of foreign employees to Mexico City from the Isthmus of Tehuantepec. Most of the foreign men are still there including, we understand, about 35 Americans.

It is believed the Aguila intends to bring most of these to Mexico City preparatory to sending them out of the country. Other foreign

<sup>77</sup> *Foreign Relations*, 1917, pp. 951, 955.

<sup>78</sup> Approved November 23, 1936, Mexico, *Diario Oficial*, November 25, 1936.

<sup>79</sup> Subsidiary of the Standard Oil Co. of New Jersey.

<sup>80</sup> Suits for injunctions.



countries are planning to send their foreign employees to positions in other countries keeping a small nucleus here.

Situation reported to be quiet in Tampico with expropriation of all plants and offices closed and management in process of formation by syndicates.

American Smelting and Refining plants at Monterrey and Chihuahua closed completely because of sit down strikes. Under legal process in the presence of Government representative strikers are being discharged by mining companies, some 300 having already been discharged. See my telegram 56, March 19, 10 a. m.<sup>81</sup>

The Bank of Mexico this morning temporarily suspended purchasing and sale of gold and foreign currencies including dollars. Private offerings for dollars are at the rate of 3.70 but general expectation is that peso will depreciate over the week-end. Withdrawals of deposits from banks heavy but not panicky.

Representative of Huasteca Oil Company states there are current rumors that our Treasury has supported the Mexican exchange in the last few days to the extent of 4 million dollars and that Castillo Nájera has informed the President that our Government would follow a hands off policy with regard to petroleum matters.

DANIELS

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812.6363/3096a : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, March 19, 1938—7 p. m.

39. The Department appreciates the full mail despatches which you have been sending in connection with the petroleum controversy, but requests that henceforth, in view of the critical turn of events, important developments be transmitted briefly by telegraph, full reports by pouch.

Please endeavor to ascertain whether the companies will have 15 working days during which to resort to administrative action for revocation of the declaration of expropriation as provided in Article 5 of the Law of Expropriation of November 23, 1936.

Regardless of whether the companies will be granted this 15 working days interval, in your opinion is there any possibility of a settlement being arrived at in the near future.

In following developments please consider the possibility of German, Italian or Japanese activities, such as negotiations for the purchase of oil.

HULL

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<sup>81</sup> Not found in Department files.

812.6363/3109 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, March 21, 1938—10 p. m.

[Received March 22—3 : 30 a. m.]

63. Neither General Hay nor Beteta at Foreign Office today. Late this afternoon I saw Beteta at his home and conveyed strong feeling of Secretary that expropriation action had surprised and shocked him because the United States had striven in an unofficial and friendly way to collaborate with Mexican officials in the proper development and pursuit of a reasonable course on their part. I told him that the Secretary considered that the present action of the Mexican Government with respect to petroleum would prove disastrous to Mexico and extremely embarrassing to the United States and to the economic and financial relations of the two countries. I also told him that Secretary Hull said he hoped that the Mexican Government could find a less drastic way of working out adjustments and settlements that would be reasonable to both parties. I added that our country had been the sincere friend of Mexico and therefore felt this strong appeal was justified.

I asked Beteta to make an engagement for me to see the President. He could not see him today but would do so as soon as possible and let me hear. I told him my Government felt that it wished to point out to the President the full import of the action. I will report as soon as Beteta answers.

Beteta said the President had requested him to say to me that he had authorized Minister of Hacienda Suarez to take up with the companies the amount to be paid for the properties and the method of payment. He hoped this could be arranged by an agreement by which the companies could receive a fixed amount of the production of oil and the Government the balance. He said that inasmuch as the companies could not get on with the workers and the Government could, this might be better than any other arrangement. This would prevent a drastic break in the price. Later I conveyed this message to Mr. Barber, representative of the Huasteca Company, who will communicate it to the managers of the other American companies. Mexico, Beteta said, wished to sell to democratic nations, the United States and Great Britain preferred. It has no relations or sympathy with Fascist countries and would not willingly sell to them. I asked about the report that Mexico had plans to sell to Japan. He denied this, but said he had learned that Petro-Mex<sup>82</sup> had sold to a Mr. Thomas, an Englishman, who in turn sold to Japan.

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<sup>82</sup> Petróleos de México, S. A.

Beteta represents the President as feeling the responsibility for the break was due to the oil companies and he said that the financial situation was so acute Cárdenas felt that longer delay would be injurious.

I took up with him the difficulties in and around Tampico, reported in my telegram 61, March 11 [21], 7 p. m.<sup>83</sup> and he said he would immediately endeavor to get adjusted. He said that at a time of excitement like this irregular things were bound to occur but he felt sure they would be straightened out within a few days.

All the daily papers here support the Government and they report that ex-President Rodriguez had called and pledged his support.

DANIELS

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812.6363/3153

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] March 21, 1938.

The Mexican Ambassador called to see me at my request this afternoon.

I commenced our conversation by saying that during the three years that the Ambassador had been in Washington he had had reason to know, I felt sure, the very high regard which the members of this Government had for him because of their conviction that he had labored consistently and most effectively in interpreting to his own Government the friendly desire of this Government to cooperate with the Government of Mexico and to solve in a friendly and fair manner all of the controversial questions which had arisen between the two Governments. I said that as a result of the policy which he and the Department of State had been following, we had now actually reached the point where we had under review all of the twenty odd important and controversial questions which had arisen during the past twenty years and some of which had never been capable of solution, and that we both had reason to feel there was ground for optimism in assuming that all of these matters could now be settled by friendly negotiation between our two Governments. For all of these reasons therefore, I said, I felt it was all the more deeply regrettable that he and I were confronting this afternoon what gave promise of being the most critical moment in the relations between the peoples of the two countries which had arisen during the course of his mission here.

I said it was most regrettable that just at the time when the negotiations I had mentioned were commencing to crystallize and not

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<sup>83</sup> Not printed.

so many weeks after this Government had gone very much out of its way in the first days of last January to help the Mexican Government pass through a serious financial crisis by purchasing a large quantity of Mexican silver which could not otherwise have been profitably sold, the Mexican Government should issue a decree providing for the expropriation of American Oil properties amounting to many hundreds of millions of dollars in value. It was all the more regrettable, I said, because this action had been taken at the very moment when the American companies had offered to accept an agreement with the Government of Mexico which gave the Mexican Government practically all that it had been contending for under the terms of the decisions of the Labor Board and of the Mexican Supreme Court.

The Ambassador knew well, I said, how closely the Department of State had been following the course of the negotiations between the companies and the Mexican Government during recent months and how frequently it had endeavored through its informal advice to the companies to smooth the path of the negotiations in order that an equitable and friendly compromise solution might be found between the Mexican Government and the American companies. I reminded the Ambassador of many incidents in the course of the negotiations which had arisen and which had been surmounted due in part to his own representations to his Government and in part to the conferences which I had had with the representatives of the companies.

I said that, speaking in the name of my Government, I felt sure that no matter how strongly the Mexican Government might feel with regard to the attitude which it alleged had been displayed by the American companies and no matter how positive its conviction might be that the companies had been ill advised and that Mexican justice and Mexican law were on the side of the contention of the Mexican Government, the Mexican Government could not deny that there were very important equities involved in these properties; and that in view of the fact that it was a matter of widespread knowledge that the Mexican Government was not financially in a position where it could pay in cash for the properties expropriated, the mere assertion by the Mexican authorities that the terms of the law would be complied with and that cash would be given for these equities within a period of ten years carried no conviction whatever and merely reaffirmed the impression generally prevailing in the United States that the Mexican Government was intent upon taking over properties of American citizens residing in Mexico of every character and nature and had no intention of giving actual compensation therefor. I said that to those of us in the Department of State who were deeply interested in seeing the advancement of the prosperity and well-being of the Mexican

people and the achievement of the policy for which President Cárdenas stood, namely, the raising of the standards of living in Mexico and the betterment, in every sense, of the life of the average Mexican citizen, the policy upon which the Mexican Government had now embarked appeared to be absolutely suicidal. I said that such a policy was bound to have the most serious repercussions upon the commercial and financial relations between our two peoples, and that there was not the slightest doubt that if this policy were persisted in it would create such a revulsion on the part of American public opinion as to make it utterly out of the question for the two Governments to negotiate in a friendly and satisfactory way the adjustment of all of these major problems which the Ambassador and I had had under review.

I then inquired of the Ambassador whether the fifteen day period during which the companies could ask for an injunction against the decree issued by the Executive still provided in his judgment a period during which a final effort could be made to seek a reasonable compromise of this acute difficulty.

The Ambassador replied that in his judgment it did. He told me that on March 19 he had, on his own initiative, spoken at great length to President Cárdenas on the long distance telephone and had told him what effect the then proposed action would have upon public opinion in the United States and of the very material difficulties which the Mexican Government would encounter as a result thereof. He told me that at first President Cárdenas had appeared to be adamant but that as a result of the conversation he had seemed to weaken considerably in his insistence to undertake expropriation and had told the Ambassador that he would give further thought to the questions involved. The Ambassador had thereupon been hopeful. Only this morning, however, the Ambassador said, he had been called up on the long distance telephone by Mr. Beteta, the Under Secretary for Foreign Affairs, who had told him that the Mexican Government had been very much pleased with the interview which Mr. Daniels had given to the press correspondents and which was interpreted by the Mexican Government as meaning that the Government of the United States would raise no objection to the expropriation order. Mr. Beteta had even requested the Ambassador to see that Mr. Daniels' interview was given the widest publicity in the United States. The Ambassador said, "What can I do under these conditions? If I should say any more without communicating an official message from this Government I would merely lay myself open to the charge that I was favoring American interests whereas the American Ambassador in Mexico was making it clear that the American Government was not concerned."

I told the Ambassador that the Secretary of State, in my presence, had this morning called Mr. Daniels on the long distance telephone <sup>84</sup> and had instructed him fully regarding the views and desires of this Government, as I had expressed them to the Ambassador; that Mr. Daniels had further been requested to lay these views and requests before the Minister for Foreign Affairs and to request an audience with President Cárdenas in order to make the same representations directly to the latter. The Ambassador expressed great satisfaction at learning of this, and said that he felt that nothing could be more helpful and that if Mr. Daniels carried out his instructions fully in this regard, they would be bound to make an impression upon President Cárdenas. He said he would immediately communicate the message I had given him to President Cárdenas on the long distance telephone and would advise him at the same time that Mr. Daniels had been instructed to make identical representations.

I then said that, speaking in a more personal way, I wondered if the Ambassador did not agree with me that the dangers involved in the step which President Cárdenas had announced, to the welfare of the Mexican Government and of the Mexican people were very great and very real. I said it was a notorious fact that the Government of Mexico could not possibly operate these oil properties except at a figure less than the cost of production and that the wages which it would have to pay the workers in the oil fields would be very much lower than the wages which the companies had agreed and were able to pay. Furthermore, I said, as the Ambassador knew, in view of the way in which oil was sold in the world market and of the control by the companies of the oil tankers, it would be out of the question for the Government of Mexico to sell this oil in the world market except at ruinous prices, and that this raised the question whether the Mexican Government would not be forced to dump the oil which it might produce into the hands of Japan, Germany, or Italy, which were the very Governments that the Mexican Government had consistently and openly opposed on the grounds of national policy. All of these questions, the Ambassador told me, he had emphasized in his last conversation with President Cárdenas. The Ambassador told me that it was his considered opinion that if President Cárdenas persisted in his present policy, the internal situation would become steadily worse, that political unrest would soon become manifest and that it would be a miracle if such conditions did not give rise to a change of government in Mexico.

Before the Ambassador left he told me that he would do everything that he possibly could to try and work out a solution. He asked me if

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<sup>84</sup> See remarks by the Secretary at press conference of March 21, Department of State, *Press Releases*, March 26, 1938, p. 393.

anything occurred to me. I told him that I remembered very well that President Cárdenas in his annual message to the Mexican Congress had specifically stated that he welcomed the investment of foreign capital in Mexico provided such foreign capital operated in accordance with the laws of Mexico and for the well-being of the Mexican people. I said it seemed to me that the President might now well refer to that statement in his annual message and find that, in the national interest and inasmuch as the companies had agreed to accede to all of the important points laid down in the decisions of the Labor Board and of the Mexican Supreme Court, and inasmuch as under these conditions the companies could pay higher rates of wages to the workers in the oil fields than could the properties under Government management, he had determined to rescind the decree of expropriation and to permit the companies to continue operating under these conditions. The Ambassador said that it seemed to him that this might prove to be a face-saving device which would satisfy the desires of the President. He said, however, that the situation of course was now more difficult than it would have been two days ago inasmuch as a great deal of public agitation had been aroused in support of the action of the President, and that it would not be easy for the President to go back in his tracks. He again emphasized his own determination to do everything possible to bring about a solution of this character. He told me that he would advise me of the result of his efforts.

S[UMNER] W[ELLES]

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812.6363/3122 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, March 22, 1938—9 p. m.  
[Received March 23—1:25 a. m.]

68. I called on President today accompanied by Boal. Beteta present. With reference to your telephone call I stressed your surprise and concern over action taken in respect to American Petroleum interests; developments have been a cause of embarrassment to our Government in view of cooperation with Mexico at Buenos Aires and Montevideo. President expressed appreciation friendly attitude of our Government and mentioned his concern at possible effect of oil controversy on friendship with democratic nations.

In mentioning events that led up to decision President cited the alleged rebellious attitude of the companies and their injurious attitude and actions toward the Government.

The President indicated Government's sincere intention of proceeding immediately to begin offering compensation through allotment to them of a share in oil produced. This share apparently not as yet determined could be sold by the companies wherever they pleased.

Discussions of the values of properties expropriated probably lasting a long time could concurrently take place, the share of oil received in the meanwhile to be credited ultimately in the final settlement.

In reply to my question as to whether this would prejudice companies' recourse to legal remedies President answered that companies would retain all legal rights and Government would have no objection or adverse feeling if they took legal action.

President expected oil production to continue without reduction and in reply to a further question of mine as to where the Government proposed to sell the oil the President indicated his desire to avoid possibility of oil reaching countries with which Government was not politically in sympathy. President indicated he would be willing to enter into a sales agreement with the United States or Great Britain and would be glad to make long term arrangements reserving such part of Mexican production for United States as it might desire.

Again reverting to events leading up to expropriation decree President indicated that no other course had been left open to him and that he hoped compensation arrangements could be worked out. In closing President mentioned his regret that a situation had arisen during his term which had caused embarrassment to our Government.

Complete report by air mail <sup>85</sup> follows tomorrow.

DANIELS

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812.6363/3159a : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, March 26, 1938—3 p. m.

46. In view of the many important problems which have arisen as a result of the recent expropriation decree, I feel it is necessary to ask you to return to Washington for the purpose of consultation immediately after you have presented to the Minister for Foreign Affairs the note communicated in the Department's 45.<sup>86</sup>

Since I understand you intended in any event to avail yourself of leave of absence during the course of this coming month, it will be desirable for you, after the period of consultation here is terminated, to take your leave of absence and you may of course make arrangements accordingly.

Please notify the Department by telegram immediately after the note above referred to has been presented by you to the Minister of Foreign Affairs since I desire to make the text thereof available to the press in the United States.

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<sup>85</sup> Despatch No. 6318, March 22, not printed.

<sup>86</sup> Not printed.



At the same time that this text is given to the press the Treasury Department will make the following announcement:

"In view of the decision of the Government of the United States to reexamine certain of its financial and commercial relations with Mexico, the Treasury will defer continuation of the monthly silver purchase arrangement with Mexico until further notice."

Please telegraph me likewise the date on which I may expect to see you at the Department.

HULL

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812.6363/3160 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, March 27, 1938—9 a. m.  
[Received 12:25 p. m.]

77. If there are conditions which justify Morgenthau<sup>87</sup> take measures to cease buying silver he could take that course at any time without a public statement concurrent with your note. It would be regarded by Mexico and all the world in the nature of a reprisal. Knowing the disposition of Mexicans I fear it may produce an impasse and prevent possible future negotiations for payment.

Do you not feel that I am entitled to fly to Washington for personal consultation before a final decision is reached and made public in a situation fraught with unpredictable consequences? I do not [like] idea of delivering the note and leaving here immediately. It would be construed that I am not willing to face any condition that may arise.

I could reach Washington Tuesday afternoon<sup>88</sup> for conference. I await instructions.

DANIELS

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812.6363/3190c : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, March 27, 1938—3 p. m.

48. Personal for the Ambassador. Your No. 77, March 27, 9 a. m. The Mexican Ambassador was confidentially apprised of the proposed action and statement of the Treasury Department on Friday afternoon.<sup>89</sup> It is my opinion that the proposed procedure is more conciliatory in nature than cessation of silver purchases without any explanatory statement.

<sup>87</sup> Henry Morgenthau, Jr., Secretary of the Treasury.

<sup>88</sup> March 29.

<sup>89</sup> March 25.

My telegram 47, March 27, 2 p. m.,<sup>90</sup> which crossed your telegram under reference, stating that the publication of the note will be withheld for the time being and authorizing you to come to Washington for consultation after delivery of the note would seem to cover your present inquiry.

HULL

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812.6363/3164 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, March 27, 1938—9 p. m.

[Received (March 28 ?) 1:30 a. m.]

81. I called to see General Hay Sunday afternoon after receiving your telegram No. 47 and delivered note<sup>91</sup> to him as you sent it. After reading it he said that if President Cárdenas were in the city he would deliver it to him tonight and would in any case take it up with him tomorrow and let me have a prompt answer. I impressed the importance of giving the assurances requested in your note.

He said his Government was resolved to pay. He emphasized particularly the payment of the expropriated oil lands. He added that his countrymen were united in this resolve and ready to make any sacrifice to meet their obligations. He said it would be impossible to make the payments in cash but that he felt sure acceptable arrangements would be made. He spoke at some length of Mexico's sincere friendship for the United States and was confident that this sentiment was reciprocated. I assured him it was reciprocated and that every evidence of friendliness had manifested our dealings with his country. I told him that in view of his promise to see the President as soon as possible and make a prompt reply my Government would not at this time publish the note and he said his Government would take a like course. He did not mention the matter of the purchase of silver. Neither did I. In view of his assurance of an early response I will postpone going to Washington. Will wire as soon as received.

DANIELS

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812.6363/3341

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] March 31, 1938.

The Mexican Ambassador called to see me this afternoon at his own request. He told me that he had just been speaking with his

<sup>90</sup> Not printed.

<sup>91</sup> Neither printed.

Foreign Minister, General Hay, on the telephone and that the latter had communicated to the Ambassador the text of the note <sup>92</sup> which was handed to Ambassador Daniels yesterday evening. The Ambassador asked me what I thought of it.

I told the Ambassador that we had not as yet made a reply, but that we would do so within the next day or so. I said that the note had been given consideration by the Secretary of State and by myself this morning, and that to our regret we could not help but feel that it was not responsive to the specific requests and inquiries addressed by this Government to the Government of Mexico. I said that, while of course we were gratified to know that the Government of Mexico intended to pay compensation for the properties expropriated and that the President of Mexico stated that the Government of Mexico was in a position to pay such compensation, nevertheless, the note did not make clear either directly or by implication what kind of payment was to be made, whether in cash or in some other form of payment, nor when compensation was to be paid. I said that unless the Mexican Government had formulated some concrete plan of payment which it could communicate to us in full detail, it did not seem to this Government that the Mexican Government was answering the questions we had very plainly asked.

The Ambassador said that he not only fully shared my opinion but that he had already informed his Government that he knew that the reply would not be considered adequate nor fully responsive, and that he would once more urge his Government as soon as our anticipated response was received to make a further reply along the lines desired by us.

The Ambassador then said that General Hay was likewise very much exercised because of the fact that yesterday in the House of Commons in London it had been stated that the British Government had been informed that this Government had presented "a very energetic note" to the Mexican Government. General Hay said that it had been agreed with Ambassador Daniels that our note would be considered as held in suspense temporarily, and that he was now very much embarrassed in view of the British statement lest the Mexican Government find itself in a position to have to admit that a note actually had been presented. He also was worried by the statement in London that joint action by the United States and Great Britain would be undertaken.

I asked the Ambassador to tell General Hay that this Government had at no time made any statement publicly to the effect that a note had been presented to the Mexican Government; that we had merely

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<sup>92</sup> Not printed. It formalized the policy outlined by President Cárdenas in his conversation with Ambassador Daniels on March 22, 1938; see the Ambassador's telegram No. 68, March 22, 9 p. m., p. 733.

limited ourselves to saying that our point of view had been very clearly presented to the Mexican Government, and that in the statement given to the press by the Secretary of State yesterday<sup>93</sup> it had been made fully clear what our point of view was. I said that of course I could not assume any responsibility for what some member of the House of Commons might say any more than I could for what some member of Congress here might say, and that I did not see that this need occasion any embarrassment whatever. I also said that this Government had never agreed to and had no plans to agree to any form of joint action with any other government in the difficulty which had arisen with Mexico. The Ambassador said he would inform his Foreign Minister accordingly.

The Ambassador then said that he had been visited last evening by a Swedish subject, Mr. Grafmann, who is interested in the Swedish telephone company in Mexico City. Mr. Grafmann had told the Ambassador that he thought a solution of the present difficulty would be for a Mexican company to be formed, headed by the most honorable private citizens that could be found in Mexico, for the exploitation of the properties expropriated, and for the British and American companies to agree to permit this new company to be used as a facade behind which they themselves would continue to develop the properties. Mr. Grafmann further said that if an arrangement along these lines could be obtained, his own Swedish group, the Wallenberg group, would be prepared to raise additional capital to put into the properties up to perhaps forty millions of dollars. In this way, he stated to the Ambassador, the Government could save its face and at the same time the companies could not only recoup their loss but could also obtain additional profits in the future.

The Ambassador seemed to be quite impressed with this possibility. I told the Ambassador that any equitable solution of the problem was of course what we had uppermost in our minds and, for that reason, every proposal that might be made should be examined with care and with attentive consideration. I said, however, that I knew he would pardon my frankness in saying that unless the Mexican Government agreed to live up to the principle of fair, immediate and effective compensation for properties belonging to foreign interests which were expropriated by the Mexican Government, I could not conceive how one penny of additional foreign capital could be invested in Mexico except by persons residing in a lunatic asylum. The Ambassador smiled and said he had to agree that he felt the crisis had now been reached and that the Mexican Government would have to agree to this principle; that perhaps in the long run it might be a salutary experience.

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<sup>93</sup> *Ante*, p. 662.

The Ambassador, before he left, expressed the very firm belief that a satisfactory agreement would be reached within the next two or three weeks by reason of the fact that oil supplies were piling up, that if the wells were capped the oil would seek lower levels and in part be dissipated and the potential wealth of the fields be lost to the Mexican Government, that labor difficulties would be enhanced every day, and that the Government would be in a position where it would have to reach a fair adjustment. He expressed the belief that when this time came, the practical negotiations which would be necessary had better be carried out in Washington or in some American city between the representatives of the Mexican Government and the American interests involved rather than in Mexico City. The Ambassador said he had already expressed this opinion to his Government and that he was rather afraid of reiterating it. He asked if we would be willing to express the same opinion to our Embassy in Mexico City. I told the Ambassador that we would be very glad to consider the suggestion, but that it seemed to me that until we had a responsive reply from his Government we were hardly in a position to make any suggestions of this character. To that he agreed.

S[UMNER] W[ELLES]

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812.6363/3245 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, March 31, 1938—9 p. m.

[Received April 1—5:30 a. m.]

93. At the request of President Cárdenas I called on him at 6:30 accompanied by Mr. Boal. Before calling Under Secretary Beteta had told me that the President wished to express his appreciation of the friendly attitude shown his country, particularly in your press statement of yesterday,<sup>94</sup> and his determination to pay all obligations, past and present, emphasizing past as well as present. Beteta also told me before I called at the Palace that the President specifically included agrarian compensation and in outlining his intentions in a talk with him he said he would as promptly as possible arrange to begin payments. Beteta said he had not discussed details with the President but had held a long conference with Suarez who was sure a means of making these payments could be evolved.

The presentation of the note was made in a very formal manner. Surrounded by two members of his Cabinet, the Under Secretary of Foreign Relations, his military aides and secretary the President read the note standing. I answered by assuring him that, as our Secretary

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<sup>94</sup> *Ante*, p. 662.

of State had said in his statement to the press yesterday, it was his very earnest desire, because of the friendly relations existing between the two countries, that a fair and equitable solution of problems should be reached and that his assurance of Mexico's intention of honoring its obligations of today and its obligations of yesterday would be deeply appreciated.

The President said he did not wish to take up in this conversation any details. Those would be arranged by the other gentlemen present, Suarez, Hay and Beteta.

Upon leaving, I asked Beteta if any publicity was contemplated. He said action would be taken as I wished. I suggested no publicity until I communicated with Washington. He agreed. I have informed no one of my call at the Palace and if the press gets wind of it I will say I called to discuss the situation with the President and will answer no questions.

I fully believe the President and his advisers, after sweating blood for a week and reading and rereading your note of March 27th which you authorized be held in suspense at the Foreign Office for a time, seriously intend to seek means to meet agrarian as well as other obligations. I purpose to press the matter and will report the course of conferences which we have asked begin immediately.

Note follows:

"My Government considers that the attitude adopted by the Government of the United States of North America in the matter of the expropriation of the petroleum companies reaffirms once more the sovereignty of the peoples of this continent which the statesman of the most powerful country of America His Excellency President Roosevelt has so enthusiastically maintained.

By this attitude Mr. Ambassador your President and your people have won the esteem of the people of Mexico.

The Mexican nation has lived in these last few days through moments of trial in which it did not know whether it would have to give rein to its patriotic feelings or to applaud an act of justice of the neighboring country represented by Your Excellency.

Today my country is happy to celebrate without reservations the proof of friendship which it has received from yours and which will be carried in the heart of its people.

Mexico has always wished [to] maintain its prestige, carrying out its obligations but elements which did not understand Mexico placed obstacles in the way of this high and noble purpose. Today a new dawn breaks on its future with the opening to it of the doors of opportunity. You may be sure Mr. Ambassador that Mexico will know how to honor its obligations of today and its obligations of yesterday.

Mr. Ambassador it is a satisfaction for the Mexicans to have the friendship of a people which through its President continues to support the policy of friendship and respect of each nation, a policy which is winning for your country the affection of many peoples of

the world. President of the Republic Lazaro Cárdenas, Mexico, D. F., March 31, 1938."

Please reply by telegraph date and hour for simultaneous release if you wish publicity.

DANIELS

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711.12/1387

*Memorandum of Conversation, by the Secretary of State*

[WASHINGTON,] April 2, 1938.

The Mexican Ambassador called at my request. After brief preliminaries we proceeded to exchange some impressions and ideas with respect to the Mexican expropriation question. I at first said with emphasis to the Ambassador that his Government and his people must know from five years of observation and of experience in its relations with the United States that, in the first place, we have the profoundest interest in the good neighbor policy and its preservation and advancement. I said that, in the second place, this country has consecrated itself in almost every possible way to cooperation with Mexico and other countries to advance the good neighbor policy, and at the same time had bestowed upon Mexico many valuable kindnesses and courtesies over and above the normal processes governing the relations between the two countries. I added that this record of relations between our two countries must confirm the Government and the people of Mexico in the view that our interests and our friendship have been of the most whole-hearted and constant nature.

I then said that the loss to American land owners, oil owners and other American property owners, whose properties have been taken over by authority of the Mexican Government, while not intended here to be minimized, is the least of a number of much larger and broader considerations which neither of our countries can afford to overlook. These considerations I summarized as follows: (1) When a great country like Mexico establishes a policy of taking over property without any serious plan or purpose to make reasonable payment, it would at once become known to all nations and would have the inevitable effect of destroying the good neighbor policy, especially in this hemisphere. This would work most serious effects upon Mexico in many unexpected ways. (2) To adopt a policy of thus seizing oil and land and a few other properties would inevitably result in the early seizure of all foreign owned properties. In other words, if this country should acquiesce in the seizure of oil or any similar properties on account of the unpopularity of the owners, both in Mexico and in this country, those who seize it would unquestionably suspend all further law for the purpose of seizing other and all foreign owned

properties. Other nations would quickly follow suit. (3) From any other than the immediate shortsighted viewpoint the policy of seizing properties without payment would soon work far-reaching injury to Mexico herself. No longer would the most needed capital for development come to that country from anywhere. Commercial and financial conditions, both internal and international, would steadily deteriorate until revolution or some similar upheaval would occur.

I said to the Ambassador that his Government must therefore see the impossible position in which these proposed or threatened steps by the Mexican Government are placing this Government and this country. We are expected to acquiesce in these acts that are contrary to law, equity, fair play and fair dealing and they would be so viewed by all civilized nations. Furthermore, they would occur just at the time when the world is on fire; when lawlessness is steadily expanding in many regions and when this Government is preaching to all nations the preservation of all the principles of law and order in every part of the world; that it would be an anomalous situation to announce in these preachments that we are making an exception in the case of Mexico. I said finally the Ambassador realized from his reading of the history of nations that in eight cases out of ten, the nation that undertook to pursue a policy of seizing the property of others without any concern about payment has always become a decadent nation soon thereafter and in its most vital processes of progress and civilization has steadily moved backward and downward. Finally, I said that this country and this Government spend much time every week in the year preaching its friendly feelings to each of the other countries, especially in this hemisphere, and particularly Mexico, and assures our people that similar friendly feelings are entertained in return. I then added that, in the light of certain news from Mexico, I wondered whether his statesmen preached this same state of opinion and attitude on the part of the Mexican people toward the people of the United States, and added that I hoped they would not overlook this phase in view of its importance to both countries alike.

The Ambassador listened attentively and apparently with the disposition to agree. He said that he had talked with President Cárdenas last evening over the telephone and that he was giving him still further assurances of a determined purpose to solve this situation. He stated that he appreciated what I had said and was in accord; that he would write fully to President Cárdenas today reciting our conversation and our state of mind in this country and earnestly urging that the matter be worked out without any more delay than possible. He admitted that President Cárdenas had not thus far intimated to him the time or means of making payment. The Ambassador added, however, that in his own opinion the matter could be handled. He withheld all details. He would be more than glad to exert himself in



every possible way to stimulate and encourage his Government to work this matter out without fail. I said to him that his Government and his people should realize and must know that whatever is said or done here is done with the feeling of the most sincere friendship, and if it at times is in any sense disagreeable it is because the Mexican Government has driven us to the very edge of the precipice, so that in the interest of international law and order, and as one of its constant upholders, this Government finds itself obliged to speak or act. I said there is no possible way we can abandon basic principles such as those relating to payment when property is expropriated.

C[ORDELL] H[ULL]

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812.6363/3269 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, April 4, 1938—11 a. m.

59. Your 99, April 3, 11 a. m.<sup>95</sup> For the time being you may refrain from delivering to the Minister for Foreign Affairs the memorandum transmitted to you in the Department's 58, April 2, 4 p. m.<sup>95</sup>

You should, however, obtain an interview with the Minister for Foreign Affairs today and in your conversation with him state that while, as this Government has already publicly made known, it has been highly gratified with the general assurances contained in the note and official declarations of President Cárdenas, it naturally assumes at the same time that these general assurances are not understood by the Mexican Government as being adequately responsive to the precise inquiries already addressed by this Government to the Mexican Government covering the method of payment of compensation and the time of payment of such compensation. You may further state that this Government likewise feels confident that the Mexican Government is in process of formulating plans and suggestions based on these plans in reply to these inquiries.

In conclusion you may make it clear that this Government will stand prepared informally to discuss with responsible representatives of the Mexican Government the plans which it believes the Mexican Government is formulating at the earliest opportunity which the Mexican Government deems appropriate. You may indicate that in the view of this Government such informal preliminary conversations might perhaps advantageously take place in Washington if the Mexican Government were prepared to send here responsible authorities of the Mexican Government for that purpose.

Please telegraph the reply which may be made to you.

HULL

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<sup>95</sup> Not printed.

812.6363/3367

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] April 4, 1938.

The Mexican Ambassador called this afternoon at my request. I told the Ambassador that I had asked him to come to see me in order that I might tell him of the instructions that had been sent to Mr. Daniels and I repeated to the Ambassador the points that Mr. Daniels had been requested to make in the interview which he was instructed by cable this morning to obtain with General Hay.

The Ambassador told me that he had again talked with President Cárdenas on the long distance telephone on Saturday night and that he himself on that occasion had said to President Cárdenas, first, that as specific a reply as was possible should be made to the precise inquiries this Government had formulated with regard to the method of the compensation payment and the time thereof; second, that he knew from his conversations with me that this Government would be prepared at any time after this step had been taken to undertake informal conversations between responsible officials of the two Governments with regard to the issues involved; and third, that he also knew that this Government felt it would be preferable for various practical reasons to have these conversations held here in Washington. The Ambassador told me that President Cárdenas had told him that he would immediately summon Dr. Suarez, Mr. Buenrostro,<sup>96</sup> and Mr. Villalobos<sup>97</sup> in order to formulate certain plans which would be responsive to our request, and for the first time, the Ambassador said, specifically authorized him to say that the Mexican Government would be prepared to send to Washington at any time we desired the necessary responsible officials of the Mexican Government to talk over informally a solution of the problem.

I asked the Ambassador if he had any word from President Cárdenas as to the nature of the plans which he had in mind. He said he did not.

I then said to the Ambassador that of course many suggestions were being made to us and that it might be desirable for the Mexican Government to know of some of these suggestions but without, of course, this Government assuming any responsibility for fathering them, so that the Mexican Government would not work out one sole alternative and then feel obliged to stick to it. The Ambassador said that from his conversations with President Cárdenas he believed that some immediate conclusions would be arrived at and all that President

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<sup>96</sup> Efrain Buenrostro, Mexican Minister for National Economy.

<sup>97</sup> Antonio Villalobos, Mexican Secretary of Labor.

Cárdenas intended to do in his reply to this Government was to indicate certain ideas to be advanced as a basis for discussion. He said that it seemed to him that the time to consider these various suggestions was as soon as conversations in Washington commenced.

The Ambassador further told me that President Cárdenas had said to him that the Mexican Government had refused to enter into any discussion even of an agreement with Mr. Rickett<sup>98</sup> and that it had no intention of doing so. The President had said that some two hundred proposals had already been received by him and that of these only three or four were even worth thinking about. He said, however, that the Mexican Government had no intention of entering into any arrangements at this time with regard to outside interests in connection with new concessions.

The Ambassador said that he had seen the texts of the appeals taken by the oil companies to the courts against the upholding of the expropriation decree of the President of Mexico. He said these documents appeared to him to be ill founded and badly drafted. I made the remark that I had not yet read them.

In conclusion I said to the Ambassador that I had seen that some purported officials of the Mexican Government now in the United States had been giving out statements to the press and I wondered if the Ambassador did not feel as I did that publicity of this character was unfortunate at the present time. I said that it had now been made evident that both our Governments were on the most friendly possible terms and had decided to exert their best efforts to finding a friendly solution of the problem which confronted them. Under these conditions I thought that the less publicity the better, and in particular, the less recrimination the better. The Ambassador said that of course I knew that he himself was entirely in accord with this point of view and that he had already requested his Government to keep the people I referred to quiet. . . .

S[UMNER] W[ELLES]

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812.6363/3298 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 4, 1938—11 p. m.

[Received April 5-3: 35 a. m.]

103. Your 59, April 4, 11 a. m. I went this afternoon accompanied by Boal to a meeting with Suarez and Beteta. I had understood yesterday that General Hay would be there and as he was not able to attend, I conveyed the views expressed in your telegram 59 to

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<sup>98</sup> Francis W. Rickett, a British oil speculator, associated with Bernard Smith, a Wall Street operator, in negotiations for the purchase of oil from Mexico.

Beteta in the presence of Suarez. They both said that they would prefer to have the conversations take place here as a great deal of data would be required, the necessary experts on various subjects are here, and they feel that under these conditions plans could be worked out more expeditiously and more satisfactorily to both countries. Suarez added that he would also prefer to have the discussions on economic cooperation resumed here.

As to oil Suarez said that he understood from the companies very definitely that while they would arrange to take inventories without prejudice they were unwilling to discuss compensation until the outcome of their *amparo* proceedings against expropriation filed today had been determined. It will be at least 2 weeks before the outcome of this in the District Court is reached, and whichever party is beaten will presumably then appeal to the Supreme Court, whose decision may be a matter of weeks or months.

Suarez said his plan as to compensation of the companies was as follows: He was discussing with the President for the time being setting aside a certain percentage, say 10 or 15 percent, of the proceeds from the sales of oil from all expropriated properties to be placed in a compensation fund in the Bank of Mexico for payment when a compensation adjustment with the companies was reached. In that adjustment the Government, he thought, would be prepared after deducting all operating and maintenance costs and other charges of industry to turn over the exportable balance, in oil produced, to the companies for export and marketing as compensation. He confirmed that this would be without prejudice to their legal position and could be done before the companies and the Government had worked out the complete compensation value of the properties expropriated.

As regards the agrarian compensation question Suarez and Beteta said they believed it would be feasible for our Government to estimate a monthly payment for deposit in a fund for us by our Government in compensation for lands. They thought it would be best that this monthly amount should appear as a further lump sum payment to be added to the amount already being paid in connection with claims. Of course it was understood that this payment would not be for claims already adjudicated but to meet further claims to be presented to our Government in connection with agrarian expropriations. They indicated that this payment might begin before the many questions involved had been adjusted by negotiation between the two Governments. Such questions as the status of agrarian claims already filed but not adjudicated would be left pending for adjustment between the two Governments. They would also endeavor to work out some plan which would provide some current payments for any current dotations of American properties.

As a preliminary to confirming their plans they wished to check with us the names of Americans who have reported dotations of their properties and the area of the latter. For this purpose Beteta will confer with Boal and Bursley<sup>99</sup> tomorrow noon. We will make current valuations of such properties leaving *amparo* proceedings open to question and adjustment in any negotiations later.

I consider that today's conversation was an encouraging opening for further discussions and that it is preferable for the time being to continue along this line rather than to press a transfer of negotiations to Washington which would involve considerable delay. If a proposal by the Mexican Government even of an informal character can be worked out and transmitted to Washington the advisability of transfer of the negotiations at that time can be considered.

DANIELS

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812.6363/3441a : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, April 12, 1938—7 p. m.

65. Your telegram 104, April 5, 5 p. m.,<sup>1</sup> reports that Beteta said that he might be able to give you "an informal memorandum" of the plan for agrarian compensation on April 9. So far as the Department is informed no memorandum has yet been forthcoming. Moreover, Beteta stated that he would "consider the advisability of giving us a memorandum outlining their plan for compensation to the petroleum companies in oil." So far as is known the only indication of the proposal that the Mexican Government is contemplating is that contained in the statement issued on April 6 transmitted by your telegram 106, April 6, 7 p. m.<sup>1</sup> This disappointment at the failure of the Mexican Government to present plans for compensation is the greater in the light of the impressions conveyed by you in your telegrams nos. 93 of March 1 [37]<sup>2</sup> and 94 and 97, both of April 1.<sup>3</sup> For instance, in your no. 93 you stated that the President and his advisers "seriously intend to seek means to meet agrarian as well as other obligations".

As you know, the agrarian expropriations under the present administration in Mexico have proceeded at a very rapid rate, so that more American properties have been affected during the presidency of General Cárdenas than during the terms of all of his predecessors. For over three and one-half years this Government has patiently been endeavoring to learn from the Mexican Government the methods by which it will compensate the American owners of the expropriated

<sup>99</sup> Herbert S. Bursley, Second Secretary of Embassy.

<sup>1</sup> Not printed.

<sup>2</sup> *Ante*, p. 739.

<sup>3</sup> Neither printed.

property. Without questioning the right of the Government of Mexico to expropriate property, this Government called attention to the obligation to make compensation representing fair, assured and effective value and requested in the most friendly way of the Government of Mexico that it be informed with regard to the methods whereby that Government will make payment for the properties of the American citizens which have been taken. Over 2 weeks have elapsed since this Government inquired of the Mexican Government, through you, what specific plan it had for making compensation. So far the Mexican Government has not made a systematic and detailed reply of a firm character which the situation requires.

During the weeks and months that our Government has been endeavoring with patience and forbearance to arrive at some satisfactory understanding with the Mexican Government regarding compensation it has sometimes seemed that the Government of Mexico, intent upon the development of its program on behalf of the citizens of Mexico, has neglected, if not at times altogether lost sight of the fact that our Government likewise has duties and responsibilities to its citizens of which it cannot divest itself. Among these responsibilities is that of assuring to American citizens compensation for the property which has been taken from them. This Government is today the more impressed of its obligation because of the magnitude of the compensation now owing to American citizens as the result of recent developments. It is needless to say that this Government, now as always, is prepared to meet the Mexican Government in a spirit of friendly cooperation, and it would most reluctantly believe that the Mexican Government will not adopt a similar constructive attitude.

You are requested, therefore, immediately to seek an interview with President Cárdenas and after informing him of the attitude of your Government as set forth above to state that your Government will hope to receive from the Government of Mexico in the very near future the memorandum with regard to agrarian expropriations which it was indicated might be forthcoming on April 9, as well as a memorandum outlining the Government's plan for compensation to the owners of the petroleum properties.

HULL

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812.6363/3532 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 19, 1938—10 p. m.

[Received April 19—9:14 p. m.]

137. *Amparo* on behalf of some of the smaller oil companies on the ground the expropriation decree established monopoly and was

therefore in violation of article 28 of the Constitution has been denied. This request for *amparo* was in addition to those mentioned in the Embassy's despatch 6496 of April 15.<sup>4</sup>

Congress has now approved the 100 million peso bond issue and steps are being taken now to secure subscriptions. It is said that organizations and industries will be expected to subscribe. Railway Workers Council of Administration has been appointed to operate national railways.

DANIELS

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812.6363/3906

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] May 9, 1938.

The Mexican Ambassador called to see me this morning at my request. I told the Ambassador that, as he well knew, I had been increasingly concerned by the delay on the part of his Government in advancing concrete proposals for adequate and effective compensation for the properties of American nationals which had been expropriated by the Mexican Government. I stated that it seemed to me that every week that passed without such action on the part of the Mexican Government made the eventual solution of these problems more difficult, and that I consequently had written to him a personal letter<sup>5</sup> setting forth the views which I had just expressed, my apprehension at this continued delay, and also explaining succinctly the position of the Government of the United States with regard to certain phases of these problems.

I then handed the Ambassador the letter, which he read carefully. He stated that he fully understood and appreciated the position of this Government.

I then said that I was conveying to him a message from the Secretary of State. I said that the Secretary wanted me to make it clear, as I had done in this personal letter which he had just read, that this Government was not in a position to make any proposals to the Government of Mexico as to the type of offer of compensation which that Government should make to the oil companies. The Secretary of State believed that such offer must necessarily be made as of the sole initiative of the Mexican Government, and that this Government was not authorized to speak for the oil companies, nor could it assume any responsibility in indicating whether any particular type of proposal might be acceptable to the oil companies, or even if such pro-

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<sup>4</sup>Not printed.

<sup>5</sup>Dated May 9, p. 664.

posal might be considered by the oil companies. I went on to say, however, that during the weeks which had transpired since the expropriation of the oil properties, many suggestions had been advanced from many sources as to various forms of solution of the difficulty which the Mexican Government had created. I said that many such proposals had been brought to the attention of the Department of State, and that I knew many such proposals had been brought to the attention of the Mexican Government and of the Mexican Ambassador here. I said that undoubtedly the Ambassador had been giving consideration to some of these proposals, and that as a result of such consideration on his part he might feel, as he had previously indicated to me, disposed to take up personally with President Cárdenas some of the various suggestions which had been made. With a desire to be as helpful as I could, I said that I had had tabulated some of the ideas which I knew had already been laid before the Ambassador, and that he might find such tabulation of value to himself in discussing with President Cárdenas possible solutions of the difficulty.

I said I wished to make it very clear and to have the Ambassador understand without any shadow of doubt that this Government was making no suggestions, and that if it should at any time be alleged in the press or any other source that this Government had advanced any suggestions, I would at once feel free to deny such reports in their entirety. The Ambassador said he understood the position of this Government fully, and that it would be entirely accurate and correct for this Government at any time to deny that it had ever made any suggestions to the Mexican Government as to the solution which should be found. The Ambassador said that he would study these various ideas very carefully during the next day or so, and that he would then probably take an airplane to Mexico City in order to take up personally with President Cárdenas the basic questions involved and the need for advancing as rapidly as possible concrete and implemented proposals for compensation to the oil companies. The Ambassador said that he would have a further talk with me before he left.

The Ambassador then said that he wished to clear up a mistake which had occurred inasmuch as he had indicated to me on the telephone a few days ago that in a conversation which he had had on the telephone with President Cárdenas the latter had promised to segregate 120,000 pesos monthly as a continuing compensation for the expropriation of agrarian properties belonging to American citizens. The Ambassador said that in a further telephone conversation he had had with General Cárdenas the latter had made it clear that this monthly segregation of 120,000 pesos was intended solely to provide compensation for the American owners of agrarian properties in the Yaqui Valley, which President Cárdenas computed as totaling 4,000,-



000 pesos. The Ambassador said that President Cárdenas was still studying a way in which to pay for the other agrarian properties expropriated, and that he had assured the Ambassador that all of the small American landowners whose lands had been expropriated would be compensated in cash before the end of General Cárdenas' presidential term. President Cárdenas intended to compensate the large landowners in agrarian bonds.

I said to the Ambassador that I was very glad to have this further information, which was in part encouraging; but that, while I as an individual naturally sympathized more fully with the situation of the small American landowners because of their urgent need of immediate cash compensation and inasmuch as the large American landholders presumably were not in actual financial distress as a result of not receiving immediate cash payment, nevertheless, I wanted to register the very emphatic opinion that insofar as its nationals were concerned, this Government could not agree to the drawing of any distinction between one group of Americans whose properties had been expropriated in Mexico and another group solely because one group happened to own larger tracts than the other. The Ambassador said he fully understood the legitimacy of this position, but that he felt that General Cárdenas wished to make it clear that his Government appreciated the urgent need of some of the American individuals whose lands had been seized and that it was disposed to deal with their cases at the first possible moment.

The Ambassador then recounted a conversation which he had had with Mr. Grafmann with regard to the oil situation and his most recent conversation on the telephone with President Cárdenas. The Ambassador had been assured from both sources that if the oil companies would agree to cooperate in some reasonable manner with the Mexican Government, the volume of oil exploited both from the Government fields and from the expropriated fields would be so greatly increased as to raise the number of workers in the oil industry from 18,000 to 54,000 and to make it possible likewise for the Government to receive such revenues as its share in the sale of such oil as to make it highly probable that the Government could pay off the amount due as the value of the oil properties seized within a short number of years. The Ambassador had received information which led him to believe that the Mexican Government would be willing to consider agreeing to pay a total valuation for all of the oil properties seized of some two hundred million dollars in lieu of the \$450,000,000 alleged to be claimed by the oil companies. I told the Ambassador that I had not the faintest idea what the value of the properties might be or what the amount claimed by the oil companies might be, and that, as he would see, in none of the communications addressed to the Mexican Government by this Government had the question of valuation been touched

upon. I said that this seemed to me to be a question for negotiation between the Mexican Government and the companies, and that I had reason to hope that the Government would agree at some appropriate opportunity in the near future to have an impartial study of the valuation undertaken by individuals whose impartiality would be recognized by both the Mexican Government and the oil companies.

The Ambassador spoke for a while with regard to some of the problems of the Lima Conference<sup>6</sup> and indicated his desire to discuss at some subsequent occasion with me the formulation of a project which might be supported by this Government and by the Mexican Government providing for the prohibition of bombing from the air in time of war as well as certain other humanitarian features. He said that the President had spoken to him of some such project in his last interview with him and that President Cárdenas was likewise very much in favor of some such inter-American treaty. I said I would be glad to talk this over with the Ambassador whenever he desired.

As he was leaving the Ambassador told me that he had received assurances from President Cárdenas that Señor Beteta had been instructed to take up with the head of the Labor Board the difficulties occasioned the La Laja Mining Company through the failure of the Board to declare terminated the strike now going on on the company's property. The Ambassador said that he believed a final and satisfactory solution of this difficulty would be obtained immediately.

S[UMNER] W[ELLES]

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812.6363/4123

*Memorandum of Conversation, by the Chief of the Division of the American Republics (Duggan)*

[WASHINGTON,] May 31, 1938.

Participants: Mr. W. S. Farish, Standard Oil Company of New Jersey.

Major T. R. Armstrong, Standard Oil Company of New Jersey.

Mr. Donald Richberg, Standard Oil Company of New Jersey.

The Secretary; the Under Secretary; the Counselor; Mr. Berle;<sup>7</sup> Mr. Hackworth;<sup>8</sup> Mr. Duggan.

The Secretary greeted the representatives of the company and informed them that he desired to discuss a matter with them in the greatest secrecy. He stated that if any information leaked to the

<sup>6</sup> See pp. 1 ff.

<sup>7</sup> Adolf A. Berle, Jr., Assistant Secretary of State.

<sup>8</sup> Green H. Hackworth, Legal Adviser.

press it might make more difficult the adjustment of the petroleum controversy.

The Secretary then stated that as a result of a continual exchange of notes between the Department and the Mexican Government as to the ways and means by which the Mexican Government would honor the obligation it recognized to compensate the owners of the expropriated petroleum property, the Mexican Government had communicated to the Department through the Mexican Ambassador a plan in broad outlines.

Mr. Berle summarized the principal features of the memorandum, touching upon the listing of the properties expropriated, the principles of valuation and method of valuation suggested, the plan for the properties to be held in a trusteeship, the proposed technical board and sales agency, and the cash payment out of the proceeds from the sale of oil since the expropriation.

The Secretary stated that he would give a copy of this memorandum to Mr. Farish and would appreciate his study. Mr. Farish inquired whether the Secretary desired that the Standard Oil Company communicate with the other companies whose properties had been expropriated or not. He indicated that to give any sort of a reply that represented a consensus of views it would be necessary to communicate with the other companies. The Secretary stated that he would have no objection to the other companies being informed of the proposal, and that he would rely upon Mr. Farish to [im]press upon [them] the necessity of maintaining the proposal in the strictest confidence.

Mr. Farish then stated that he would like to say a few general words regarding the Standard Oil Company. His company is a world trade enterprise, doing more than one-half of its business in foreign trade. During the last fifteen years it has substantially increased its foreign investments and today has investments in practically every country of the world. The expansion of the company's operations followed upon advice and counsel of the Conservation Board some fifteen years ago. In these foreign countries the company endeavors in all ways to observe the local laws. In Italy and Germany, for instance, the governments have imposed considerable restrictions upon the operations of the local Standard Oil subsidiaries. The parent company endeavors to do what it can to help these subsidiaries to live up to their obligations. The parent company does not expect any assistance from the United States in connection with the observance of local law on the part of the companies; it does, however, expect protection from the United States Government in case the property of the company abroad is affected illegally and outside of the recognized principles of international law. When Japan stated that it was going to take over the petroleum companies,

the State Department was very helpful in securing immediate payment.<sup>9</sup> The Department gave similar assistance in connection with the expropriation of petroleum companies in Manchoukuo. The Department also gave assistance in connection with the expropriation of the company's properties in Spain. These properties were paid for with relative promptness, although payment was really forthcoming only after the French Government had informed the Spanish Government that it must pay quickly.

Mr. Farish stated that time and again in many parts of the world there had arisen sentiment for expropriation of the company's properties and in some cases, as above indicated, governments had actually expropriated the company's properties. So far, with the exception of the properties of the company taken by the Soviet Union, payment has been made for expropriated properties in accordance with the generally accepted principles of international law. The company attaches importance to the expropriation of its properties in Mexico not because of the purely Mexican aspect of the matter but because of its effect on other countries. Therefore, in considering any proposal advanced for compensation by the Mexican Government, the company must view it from the standpoint of its other foreign investments. If the company accepts some arrangement which in effect is based upon some compromise of the principles of international law, the company then considers that it is lost since a precedent will have been established. Other countries will follow suit and the company will not be able in these cases to stand on the ground that if its properties are expropriated they should be paid for at the time of taking in cash.

The Secretary stated that the Department likewise had these considerations in mind and was doing all that it could day and night to attempt to uphold the principles of an orderly world society. The Department would continue to be active along that line. Nevertheless under existing conditions, the Secretary stated that he saw little possibility of the properties being returned unless the United States was to take military action.

Mr. Farish stated that the company did not ask for any aggressive action against Mexico and was entirely opposed to that line of conduct. The company has turned a deaf ear to the many persons who have endeavored to enlist the company's interest and financial support in revolutions, et cetera, in Mexico.

Mr. Farish then covered once again about the same ground that he covered in his first statement. What worries his company, he said, is what will happen in other countries if the company compromises

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<sup>9</sup> For correspondence regarding representations on establishment of oil monopolies in Japan and Manchuria, see *Foreign Relations*, 1937, vol. iv, pp. 723 ff. Earlier correspondence on this subject is printed in *Foreign Relations* volumes for the years 1933 to 1936, inclusive.

now on the principle of international law that payment should be made at the time that title passes.

The Secretary then inquired if the Mexican Government were to make more of what might be considered a reasonable offer on an equitable basis for compensation, what would the attitude of the company be. He elaborated upon this, indicating that what he had in mind was a truly international trusteeship.

Mr. Farish asked in reply whether that arrangement would give protection to the other Standard Oil companies abroad.

The Secretary replied that with international relations in their present state of chaos there was no way to prevent, except by force, unstable governments from taking property. He then proposed two alternatives—either negotiating some agreement with the Mexican Government or letting things go with the hope that in some future time it might be possible to adjust them satisfactorily.

Mr. Farish stated that, while he could not undertake to speak for the company, it was his own tentative opinion that the company would prefer to let things go than to accept a proposal which compromised the doctrine of compensation.

It was agreed that when the companies desired to confer further with the Department regarding the memorandum submitted by the Mexican Government, they would notify the Department and a further meeting would be arranged.

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812.6363/4413a : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, July 20, 1938—2 p. m.

140. The *New York Times* this morning publishes an article by Kluckhohn which reads in part as follows:

“President Lazaro Cárdenas asserted tonight that the activities of the United States Government with reference to the Mexican expropriation of foreign-owned oil properties had been devoted exclusively to trying to get the United States oil concerns to deal directly with the Mexican Government. The President declared that the United States State Department had made no demands upon Mexico in regard to the expropriation and had sent no formal note. He said Washington had merely asked questions. These statements were made at a press conference this evening.”

Please telegraph the Department as soon as possible whether you have obtained or can obtain confirmation that President Cárdenas actually made such a statement as that attributed to him.<sup>10</sup>

<sup>10</sup> Ambassador Daniels reported that, according to a Foreign Ministry statement, President Cárdenas' answers to questions from a newsman did not justify the impression that Secretary Hull had not persistently insisted on compensation for appropriated properties of American oil companies.

The Department, in view of the instructions contained in Department's telegram No. 50 [47] of March 27, 2 p. m.,<sup>12</sup> of course assumes that the Government of Mexico has always regarded the Department's note transmitted in the Department's telegram No. 45 of March 26, 2 p. m.,<sup>12</sup> as having been delivered and has understood the position of the Government of the United States to be as indicated in Department's telegram No. 50 [47], namely that it "was prepared to withhold publication of the note, for the time being, and definitely if a satisfactory solution is found."

HULL

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812.6363/4424 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, July 21, 1938—noon.

[Received 2:47 p. m.]

316. In view of understandings reached at the time, I do not feel that the note of March 26, No. 45<sup>12</sup> should be published. In Mexico and when I was at home nearly every oil man with whom I talked urged that the note be printed. Newspapermen here and in Washington claimed to have information that a note had been written and have been persistently asking me about it. I have declined to discuss it and never admitted to them that such a note was in existence.

General Hay said, when we agreed to hold up the note, "I will treat it as not received." I assented. Under these circumstances, they would feel we had not kept faith if the note is printed. We are in a stronger position to say that from the day of expropriation the Department has insisted in every way to the Mexican Government upon adequate payment.

DANIELS

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812.6363/4441a : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, July 21, 1938—6 p. m.

143. It will be recalled that by telegram no. 45, March 26, 2 p. m.,<sup>12</sup> I sent you the text of a note to be delivered to the Minister for Foreign Affairs. By telegram you transmitted various observations for my consideration. After giving them careful thought I sent you tele-

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<sup>12</sup> Not printed.

gram no. 47, March 27, 2 p. m.,<sup>18</sup> instructing you to deliver textually the note as transmitted, with the omission of one word, and authorizing you to inform the Minister for Foreign Affairs that this Government was prepared to withhold publication of the note for the time being, and definitely if a satisfactory solution were found. By telegram no. 80 of March 27, 8 p. m.,<sup>18</sup> you stated that you had delivered the note to the Minister for Foreign Affairs.

By telegram no. 83, March 29, 1 p. m.,<sup>18</sup> you informed me of President Cárdenas' request that the note delivered on the afternoon of March 27 be withdrawn and altered because it made no reference to certain oral observations regarding compensation which he had made to you on the occasion of your call on March 22. Later on the afternoon of March 29 you telephoned and I talked principally with Boal, because you had a sore throat. My record of conversation shows that Boal presented orally the views contained in your telegram 83, of March 29, 1 p. m. I informed him that it would be impossible for this Government to withdraw the note, but that in an endeavor to be as sympathetic as possible I suggested that the Mexican Government present in writing the views it had previously given orally to the Ambassador, and that this communication need not refer to or be in reply to the note which you had already delivered. It was never remotely contemplated that the note would be suspended or withdrawn, inasmuch as the note had been delivered and received in the regular procedure in these matters. The Department's position was that the Mexican Government could state its own position as though it were not in reply to our note, which of course would have to stand, but that publication of the note would be withheld, at least temporarily, and permanently if a satisfactory solution were found. In view of the fact, as you stated this morning on the telephone to Duggan, that the note is still in the physical possession of the Mexican Foreign Office, I believe it desirable that whatever ambiguity may have existed in the minds of the Mexican Government be clarified at once, and therefore desire you to inform the Minister for Foreign Affairs that this Government has always considered, and will continue to consider the note as regularly delivered and valid in every respect. You may inform General Hay that in view of a misunderstanding that has arisen an endeavor will be made, in responding to press inquiry, not to mention this particular communication but that my position in this matter will have to be reconsidered if the Mexican Government or persons closely connected therewith continue to deny publicly that a note was delivered on March 27.

HULL

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<sup>18</sup> Not printed.

812.6363/4442: Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, July 23, 1938—5 p. m.  
[Received July 24—12:15 a. m.]

323. I had a talk with General Hay today with reference to your No. 143 of July 21, 6 p. m. I am sending result of the long conversation by air mail Sunday.<sup>15</sup> It should reach you Monday or Tuesday.

He said he was glad you sent the note addressed to Ambassador Castillo Nájera regarding land expropriations.<sup>16</sup> He added that his Government is giving careful consideration to the reply which will be made by one gentleman government to another. He did not indicate the date when the answer will be forwarded but I gathered it would be within a short time.

DANIELS

812.6363/4673

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 7264

MEXICO, August 25, 1938.  
[Received August 31.]

SIR: I have the honor to refer to my despatches No. 6774 of June 2, No. 6794 of June 7, No. 6812 of June 10, 1938,<sup>17</sup> and other data that have been forwarded to the Department, all with regard to the properties subsidiary to or affiliated with the expropriated petroleum companies, which have been occupied by the Government.

In brief, it will be recalled that the Expropriation Decree states, among other things, that the Ministry of National Economy was to issue a list of the properties to be occupied. Up to the present this has not been done, but many of the properties not directly belonging to the companies mentioned in the Expropriation Decree have, nevertheless, been occupied.

*Amparo* proceedings, as indicated in my despatches above mentioned, were brought by various of the affiliates owning the occupied, but not expressly expropriated, properties, and these have made some progress. The main hearings (the majority of which were scheduled for Tuxpam and Tampico courts) were in general to be held in the week of July 4–July 13. Delays ensued, and on July 29 a hearing was held; this was not on the issue at hand but merely on whether or not the various cases should be consolidated.

It was decided to do this and the case is now set for September 2, 1938.

<sup>15</sup> Not found in Department files.<sup>16</sup> Dated July 21, p. 674.<sup>17</sup> None printed.



The companies are going to send their representatives before the courts on that day, but they believe that their case is so strong that it will not be heard and that merely a further postponement will be the order of the day.

In connection with the companies' case, reference is made to the court decision of July 26, 1938, which denied the appeal of the companies to the effect that the new administrative organization constituted a monopoly, and thus countervened the Mexican Constitution.

Respectfully yours,

JOSEPHUS DANIELS

812.6363/4701

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 7295

MEXICO, August 30, 1938.

[Received September 6.]

SIR: I have the honor to transmit herewith a copy and translation of the Foreign Office's note No. 58738 of August 23, 1938,<sup>18</sup> which was received at the Embassy yesterday. This note refers to a letter which the Foreign Minister received from the National Hotel Association of Mexico City, pointing out that an anti-Mexican Campaign is being carried on in the United States and particularly in the State of Texas by the oil companies. It states that the campaign is carried on through the filling stations where advice is given to tourists headed for Mexico to discontinue their trips. The Foreign Office requests that provided this is found to be true appropriate steps be taken to bring an end to the campaign. There is also enclosed herewith a copy of the Embassy's reply<sup>18</sup> to the Foreign Office of even date.

Respectfully yours,

JOSEPHUS DANIELS

812.6363/4701

*The Secretary of State to the Ambassador in Mexico (Daniels)*

No. 2225

WASHINGTON, September 30, 1938.

SIR: The Department has to acknowledge the receipt of your despatch no. 7295 of August 30, 1938, with enclosures, including a copy and a translation of a note which you have received from the Mexican Foreign Office, stating that it had received information that filling stations in the State of Texas are distributing advice to tourists headed for Mexico to discontinue their journey.

In reply, you are requested to direct the following note to the Mexican Foreign Office:

<sup>18</sup> Not printed.

"Excellency :

"I have the honor to refer to Your Excellency's note no. 58738 under date of August 23, 1938,<sup>20</sup> with respect to a letter which Your Excellency had received from the National Hotel Association stating that a campaign directed against Mexico was being carried on in the United States and particularly in Texas by the oil companies, and to my acknowledgment thereof, no. 3065 of August 30, 1938.<sup>20</sup>

"The Government of the United States would find it unfortunate were statements deemed offensive by the Mexican Government indeed uttered by private citizens or organizations of the United States; however, my Government is assured that the Mexican Government will appreciate that, while the foreign relations of the United States are conducted on a basis of full respect for the rights and sensibilities of other Nations, the traditional freedom of speech enjoyed by every citizen of the United States is a right guaranteed by the Constitution. The publication of articles or the expression of private opinion is not a matter which is subject, under our Constitution, to Executive control. In the premises, my Government rests assured that the Mexican Government will appreciate that, save where federal law has been violated, the Government of the United States has no jurisdiction. However, should it be found that such publication or expression of private opinion contain matter which were deemed libelous, the injured party may always resort to the initiation of action in the appropriate court or courts for judicial determination of the question.

"With reference to your suggestion that some measure be taken seeking the suspension of such activities, if indeed they exist, the only course which might be open to my Government would be an informal approach to the State authorities. The advisability of such an action is questioned. It would be unfortunate if, because of the present state of public opinion in the United States in regard to expropriation by the Mexican Government of American properties without compensation so far, there were to develop further irritation as a result of any action which might be taken on the basis of Your Excellency's representations regarding propaganda activities.

"Accept, Excellency, the renewed assurances of my highest and most distinguished consideration."

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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812.6363/4913 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, October 9, 1938—noon.

[Received 4:11 p. m.]

400. Referring to my telegram number 397 of October 6, 6 p. m.,<sup>20</sup> Supreme Court decided on October 8<sup>21</sup> not to take action on question

<sup>20</sup> Not printed.

<sup>21</sup> Cía. Mexicana de Petróleo, "El Aguila," S. A. y coagas., Núm. 4368 de 1938, Sec. 2a, Mexico, *Semanario Judicial de la Federación*, vol. LVIII, No. 2, October 6-13, 1938 (Mexico, 1939), pp. 354-364.

of constitutionality of decree of March 18 and expropriation law of 1936. Basis of decision was that executive power had not as yet resolved the appeal entered with administrative authorities by the companies against the expropriation action. See third paragraph my telegram number 390 of September 29, 1938.<sup>22</sup> Air mail despatch follows.

DANIELS

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812.6363/4964 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, October 25, 1938—6 p. m.

[Received 7:50 p. m.]

414. Referring to my telegram No. 400 of October 9, 12 noon. Mr. Sollenberger has informed a member of my staff that appeal entered with administrative authorities (referring to my despatch No. 7495 of October 7, 1938<sup>22</sup>) has now been denied by these administrative authorities.

This means that *Amparo* action against expropriation decree et cetera will have to be begun all over again in the district courts. It is anticipated that copies of the administrative refusal will be available for transmission by air mail tomorrow.

DANIELS

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DISCUSSION OF AN AGREEMENT BETWEEN THE UNITED STATES  
AND MEXICO FOR A LUMP SUM SETTLEMENT OF GENERAL  
CLAIMS<sup>23</sup>

411.12/2510

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 5974

MEXICO, January 13, 1938.

[Received January 19.]

SIR: I have the honor to refer to the Department's Instruction No. 1855 of December 30, 1937,<sup>24</sup> and to enclose herewith, for the Department's information, a copy of a Note which I have to-day addressed on this subject to the Foreign Office.

This matter was the subject of a preliminary conversation between Mr. Beteta, Undersecretary for Foreign Affairs, and Mr. Boal, Counselor of the Embassy, in the course of which Mr. Beteta suggested that the substance of the Department's objections to his Memorandum,

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<sup>22</sup> Not printed.

<sup>23</sup> Continued from *Foreign Relations*, 1938, vol. v, pp. 690-699.

<sup>24</sup> *Ibid.*, p. 695.

(see Embassy's Despatch No. 5811 of December 11, 1937),<sup>25</sup> be given in writing, and indicated that after studying these an effort would be made to suggest a procedure following the terms of the Treaty and within its scope, which would be satisfactory to the Mexican Government.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure]

*The American Ambassador (Daniels) to the Mexican Minister for Foreign Affairs (Hay)*

MEXICO, January 13, 1938.

EXCELLENCY: I have the honor to refer to the Memorandum of December 1, 1937,<sup>26</sup> supplied to the Embassy by the Foreign Office, regarding the settlement of General Claims under the Protocol of April 24, 1934.<sup>27</sup>

I have the honor to bring to Your Excellency's attention, under instructions from my Government, certain points mentioned in the Memorandum under reference, on which the Government of the United States is not in agreement. For Your Excellency's information, I present below a statement of the differences of opinion on these points, in order that consideration may be given thereto with a view to our two Governments proceeding in this matter in accordance with the obligations of Paragraph "Fifth" of the Protocol of April 24, 1934:

It is believed examination of the records of the Mexican Government will disclose that in 1931 and 1932,<sup>28</sup> when the discussions, which eventually led up to the Protocol of April 24, 1934, were proceeding, the contention of the Mexican Government was that all of the pending claims, both general and special, should be settled by en bloc agreements; that, in the absence of such agreements, there should be but one further extension of time for the final disposal of all the claims by means of pleadings, and that that period should be limited to two years, with a possible extension, in case of extreme necessity, to three years, and that the series of pleadings necessary for the development of the cases should be curtailed as much as possible, and that those claims which could not be supported upon the merits should be withdrawn.

When negotiations were initiated for the purpose of concluding the Agreement of 1934, the Government of the United States was, in principle, in general agreement with the Mexican Government in all those points, except that with respect to an en bloc settlement of the

<sup>25</sup> *Foreign Relations*, 1937, vol. v, p. 693.

<sup>26</sup> *Ibid.*, p. 694.

<sup>27</sup> *Ibid.*, 1934, vol. v, p. 470.

<sup>28</sup> See *ibid.*, 1932, vol. v, pp. 732 ff.

General Claims, and was of the opinion that it would not be possible to develop both the general and special claims, even by a curtailed series of pleadings, within three years. It seemed clear that an en bloc settlement of the General Claims, under the circumstances then existing, was not practicable, since neither Government could have a definite idea as to the extent of its general liability, or that of the other Government on such claims. Another difficulty was the insistence by the Mexican Government at that time upon the numerous so-called Texas land claims amounting to approximately \$235,000,000.00, which subsequent pleadings have shown to be invalid.

In the light of the foregoing, the en bloc settlement of the special claims and the Protocol of April 24, 1934, were agreed upon as the nearest possible approach to the wishes of the Mexican Government. The Protocol embodied the principles which the Mexican Government advanced, so far as concerns the matter of pleading General Claims, and, in accordance with the desires of that Government, the time allowed for the development of the cases was limited to about thirty months, whereas, the time allowed the Commissioners of the two Governments, for consideration of the claims, after being fully developed, was greater than the maximum for which the Mexican Government had contended, namely, more than three years.

The Protocol was concluded on April 24, 1934, and the Mexican Government decided in October, 1934, to retain as its General Claims Commissioner Dr. Fernandez MacGregor, who was already familiar with the claims' work and, presumably, with the hundred or more cases already pleaded. On October 19, 1934, the American Commissioner<sup>29</sup> was appointed in pursuance of the Protocol. Nevertheless, the final Report of the two national commissioners was not filed until the end of October, 1937.<sup>30</sup> Thus, under the terms of the Protocol, the commissioners of the two Governments were allowed more than three years for the consideration of the remaining claims, after the cases had been completely pleaded for their convenience, and after the elimination, by the two Agents, of approximately 1,500 claims, which they did not consider supportable on the merits.

Respecting the statement, in the Foreign Office Memorandum of December 1, 1937, that the failure of the two commissioners to decide—(more than 1,000)—all claims submitted to their consideration was not due to any fault on the part of the Mexican Commissioner, it may be said that, while there is no desire to place blame on any particular individual, it is worthy of note that circumstances were such that, as related below, representatives of the United States Government have completed their study of the individual general claims, and the

<sup>29</sup> Oscar W. Underwood, Jr.; see Department of State, *Press Releases*, October 20, 1934, pp. 265-266.

<sup>30</sup> Report not printed.

Mexican authorities apparently have not, or at least, did not decide them with their American confreres, who were ready so to do.

In the conclusion of the Protocol, and in the development and submission of the pending claims in pursuance thereof, the wishes of the Mexican Government were observed, and the failure of the two commissioners to consider and to agree or disagree with respect to all the claims submitted to them, was not due to any unpreparedness or unwillingness of the United States.

There are still pending some 1,100 claims which the two commissioners did not discuss through no fault of the United States in the matter of compliance with the theretofore expressed desire of the Mexican Government that the claims be disposed of in a maximum of three years.

Attention is invited to the fact that Paragraph "Fifth" of the Protocol of April 24, 1934, provides that "upon the basis of" the joint report of the two commissioners and "with the least possible delay", the two Governments shall "conclude a convention for the final disposition of the claims, which convention shall take one or the other of the two following forms, namely, first, an agreement for an en bloc settlement of the claims wherein there shall be stipulated the net amount to be paid by either government and the terms upon which payment shall be made; or, second, an agreement for the disposition of the claims upon their individual merits."

The report of the two commissioners has now been filed, and the obligation of the two Governments to conclude the convention called for by the "Fifth" paragraph of the Protocol now rests definitely upon them.

The Memorandum dated December 1, 1937, from the Foreign Office, apparently contemplates some informal, ex-conventional, en bloc negotiations, without any binding obligation on the part of the Mexican Government in the matter of the conclusion of an en bloc convention as the only alternative to umpire proceedings on the pending claims. The procedure suggested in the Memorandum seems to be based on the technical contention that since the two commissioners did not succeed in discussing all of their cases, and did not file written opinions in the cases not discussed, it would be impossible in the event of failure to conclude such an en bloc convention, to continue to the umpire proceedings because there would not be available for submission to the umpire the separate opinions of the two commissioners in the cases not discussed by them.

The American Government cannot concur in the technical objections just mentioned for the following reasons:

1. The American Commissioner has prepared his opinions in all cases—those not discussed, as well as those decided.

2. During the pendency of the en bloc negotiations called for by Paragraph "Fifth" of the Protocol, such opinions are unnecessary and no provision for their use in such negotiations was contemplated by the Protocol.

3. If it is the desire of the Mexican Government that such opinions of the Mexican Commissioner be prepared for submission to the umpire, in the event of failure to conclude the en bloc settlement convention, ample time would apparently be available for the filing of such opinions as the umpire proceedings progressed.

4. It could not be conceded by the American Government, under any circumstances, that the incompleteness by the Mexican Government of the tasks of preparation and discussion, in order that there might be appraised all general claims submitted, could constitute any proper basis for contending that the obligations of the Protocol have been set aside, or that the two Governments are now under the necessity of proceeding to further negotiations respecting the pending claims released from the obligations of either the Convention of September 28 [8], 1923,<sup>31</sup> or the Protocol of April 24, 1934.

The Government of the United States considers it of great importance to proceed to the conclusion of this long-pending matter precisely in accordance with the obligations of the Protocol of 1934, which was the result of several months of negotiation. It, therefore, anticipates the cooperation of the Mexican Government in the matter of concluding the convention called for by Paragraph "Fifth" of that Protocol. To this end, it invites the Mexican Government to designate a representative to confer with a representative of the United States with a view to concluding, if possible, an en bloc settlement.

If the Mexican Government is prepared to send such a representative to Washington, the Government of the United States will be prepared to share in equal proportions the expenses of the two Governments in that connection.

It would be understood that the early negotiations contemplated would not have any other character than that of compliance with Paragraph "Fifth" of the Protocol of April 24, 1934.

Please accept [etc.]

JOSEPHUS DANIELS

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411.12/2545

*The Counselor of Embassy in Mexico (Boal) to the Chief of the Division of the American Republics (Duggan)*

MEXICO, February 2, 1938.

DEAR LARRY: I had a talk yesterday with Beteta<sup>32</sup> on the General Claims. We went over much the same ground as heretofore reported to the Department in this Embassy's despatches.

<sup>31</sup> *Foreign Relations*, 1923, vol. II, p. 555.

<sup>32</sup> Ramón Beteta, Mexican Under Secretary for Foreign Affairs.

Beteta explained that they had no intention or desire of departing from the terms of the Convention, but, nevertheless, they were anxious to avoid passing into a phase of negotiations for an en bloc settlement under the guns of an arbitral alternative, (my language). It appears that Cordoba,<sup>88</sup> who has for several years worked on the Claims Commission, is going to Washington in a few days to take up his new assignment as Legal Adviser to the Mexican Embassy there. Beteta's feeling is if Cordoba could, in an entirely informal and personal way, in his capacity only as a member of the Mexican Embassy, discuss with some persons in the Department the outlines of an en bloc settlement, something might be arrived at which would be acceptable to both Governments, whereupon formal negotiations could be begun immediately with a view to concluding an agreement on the basis already explored. I told Beteta that I had no idea if the Department would be willing to talk to Cordoba along these lines, (even on the understanding that he was simply exploring the situation as a member of the Mexican Embassy since he no longer belonged to the Mexican Claims Commission.)

I have talked over the matter further with the Ambassador, and he feels that I should write you as I am doing in a purely personal way to get some idea of the Department's attitude in order to be able to give Beteta some lead as to what opening there will be for an approach by Cordoba.

The Ambassador feels that this may be an opportunity to get an en bloc settlement of General Claims worked out, and that it would probably be better for us to go ahead, as suggested by Beteta, and try to reach an adjustment, always with the understanding that these were purely informal conversations, and if they did not succeed we would, of course, continue with the Treaty procedure. In other words, such discussions would have no effect whatever on the carrying out of the Treaty, or on our views regarding the matter of the undiscussed claims.

Beteta is sending us a communication on the subject of the undiscussed claims intended to defend the Mexican position in this regard, but I gather that it is primarily for the record.

Yours,

PIERRE

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411.12/2510 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, February 3, 1938—5 p. m.

22. Your despatch 5974. Utilizing the fact that by paragraph Fifth of Protocol of April 1934 Mexican Government agreed to pro-

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<sup>88</sup>Roberto Córdova Dosal, appointed Mexican Agent, General Claims Commission, in April 1936.



ceed, at the present stage, with "least possible delay" to conclude the final agreement for the General claims settlement, and the fact that any agreement so concluded must be approved by the Senate, please endeavor to expedite reply to your note of January 13 in an effort to avoid more than a year's delay in making such agreement effective, since justice to hundreds of claimants, many of them very needy, is meanwhile being deferred.

HULL

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411.12/2545

*The Legal Adviser (Hackworth) to the Counselor of Embassy in Mexico (Boal)*

[WASHINGTON,] February 16, 1938.

DEAR MR. BOAL: Mr. Duggan has shown me your interesting letter of February 2, 1938, regarding a possible en bloc settlement of the general claims.

The attitude of the Department in this matter was set forth rather fully in instruction No. 1855 of December 30<sup>34</sup> and was well conveyed to the Foreign Office in the Embassy's very good note of June [*January*] 13. Perhaps the following further explanation of the Department's attitude may be helpful to you in making this Government's position clear, in a proper manner, to the Mexican authorities.

In the first place, the Department cannot properly abandon rights conferred upon this Government, in the interest of the numerous claimants, by the provisions of the General Claims Protocol of 1934. But, putting aside that phase of the matter for the purpose of this consideration, suppose we should agree to ignore those specific provisions of the Protocol for the purpose of an informal discussion of en bloc settlement possibilities, and suppose, then, that such discussions proved unsuccessful, as they very well might. Having exhausted the possibilities in that direction by informal discussion, it would then be wholly impracticable, of course, to insist that the Mexican Government proceed to a formal consideration of the same subject as the necessary preliminary to concluding a convention providing for reference of the unadjudicated claims to an umpire, in accordance with the second alternative provision of paragraph "Fifth" of the Protocol.

It is well known to the Department, of course, that the Mexican Government does not desire to refer the unadjudicated claims to an umpire, but the fact is that it agreed to do so in the event that an en bloc settlement of the claims should prove impossible, and the Department has no intention of releasing the Mexican Government

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<sup>34</sup> *Foreign Relations*, 1937, vol. v, p. 695.

from that obligation, either expressly or by implication. It is unnecessary to explain to you the reasons for that attitude. On the other hand, the Department, in accordance with the policy which characterized its attitude in agreeing to the Protocol of 1934, has no disposition to be arbitrary and unreasonable in the matter of concluding an en bloc settlement. In this situation, the provisions of the Protocol and the obligations thereunder being what they are, the Department feels that it has no proper alternative in the matter save that of insisting upon proceeding, as agreed in the Protocol, to the formal consideration of an en bloc settlement or of permitting its efforts in that direction to become frustrated by the definite refusal of the Mexican Government to comply with its clear and specific written engagement in that connection.

The Department would be disposed, in the formal negotiations, to do everything practicable in an effort to reach a proper en bloc settlement of the unadjudicated claims, but unless the Mexican Government is willing to proceed in the same spirit and in accordance with the Protocol, on the basis of faith in that attitude, the Department can only conclude that it is definitely unwilling to effect compliance with its written obligation. If such a conclusion were forced upon this Government the Department would probably be unable to see any virtue in concluding other agreements of the fulfillment of which it could have no greater assurance.

Since the Mexican Government apparently has not been disposed to accept the Embassy's note of January 13 as a definite indication of this Government's policy in this connection, I hope you can, in the light of the foregoing and in a proper, informal manner, convince the appropriate authorities that the Department will consider no other procedure at this stage than formal action looking to the conclusion of a convention precisely in accordance with the terms of paragraph fifth of the Protocol.

Sincerely yours,

GREEN H. HACKWORTH

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411.12/2559

*Memorandum by the Chief of the Division of the American Republics  
(Duggan)*<sup>35</sup>

[WASHINGTON,] March 1, 1938.

In a conversation on February 28, 1938, Mr. Welles<sup>36</sup> discussed the General Claims Convention, and informed the Mexican Ambassador<sup>37</sup>

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<sup>35</sup> Addressed to Mr. Hackworth, the Legal Adviser, and Mr. Bert L. Hunt, United States Agent, General Claims Commission.

<sup>36</sup> Sumner Welles, Under Secretary of State.

<sup>37</sup> Francisco Castillo Nájera.

that it was the desire that the Mexican Government designate a representative to confer with an American representative to determine on the amount of an en bloc settlement, the terms of payment and the terms of a convention to carry the agreement into effect.

Dr. Nájera stated that Mr. Roberto Cordoba, who had been an Agent for the Mexican Government in the Claims Arbitration was now stationed at the Mexican Embassy, and that he would request his Government to name Mr. Cordoba as the Mexican representative.

LAURENCE DUGGAN

411.12/25673

*Memorandum by the Legal Adviser (Hackworth)*<sup>88</sup>

[WASHINGTON,] March 21, 1938.

On March 17 Mr. Hunt and I discussed with Mr. Córdova, Legal Counselor of the Mexican Embassy, the possibility of completing the General Claims work. He stated that he was authorized to enter into discussions with us with a view to arriving at a lump sum settlement, but that he was not prepared to proceed under the terms of the protocol of April 24, 1934. It was his contention that the work of the Commissioners contemplated by the protocol had not been completed and that therefore it was not in order to proceed under the fifth paragraph thereof, which provides in effect that upon the basis of the report of the two Commissioners the two Governments shall conclude a convention for the final disposition of the claims, which convention shall take one of the following forms, that is to say:

- (a) an agreement for an en bloc settlement,
- (b) disposition of the claims on their individual merits in connection with which the cases on which the two Commissioners have not agreed would be submitted to an umpire.

The protocol provided for the selection of Commissioners "to appraise, on their merits, as rapidly as possible, the claims of both Governments". The Commissioners were to meet not later than six months before the termination of the period for the completion of the pleadings for the purpose of reconciling their appraisals, and were to submit to the two Governments, not later than six months from the date of the completion of the pleadings, a joint report of the results of their conferences "indicating those cases in which an agreement has been reached by them with respect to the merits and the amount of liability, if any, in the individual cases, and also those cases in which they shall have been unable to agree with respect to the merits or the amount of liability, or both." The Commissioners

<sup>88</sup> Addressed to Mr. Duggan and Mr. Welles.

submitted the joint report provided for, which disclosed that they had agreed upon certain cases, had disagreed upon other cases, and that still other cases had not been discussed by them. It seems that the cases on which the Commissioners agreed, either on the amounts to be allowed the claimants or on the dismissal of the claims, were for the most part small claims for personal injury or death, of which the largest number were Mexican claims. To be exact, there were 38 awards in favor of Americans amounting to \$190,343.23, and 63 awards in favor of Mexicans amounting to \$392,431.82. When the Commissioners came to a discussion of the large property cases the Mexican Commissioner was not prepared to go forward. Mr. Underwood, the American Commissioner, states:

“With the exception of a few Vera Cruz cases the only Mexican claims remaining undiscussed are the so-called Texas land claims and the claim of Garfías, Docket No. 3029. These are ancient claims and in my opinion are worthless; so, I think, practically speaking, all of the meritorious Mexican claims have been discussed. I had no objection whatever to covering so large a proportion of the Mexican claims and I am well satisfied that they have been passed upon.

“With regard to that large group of American claims comprising, in general, business losses, contract, tax, expropriation, and agrarian cases, generally speaking they have not been discussed.

“During the Mexico City conferences in February and March of this year some cases belonging in these categories were brought before the Commissioners and it then became evident that the Commissioners lacked a common objective with regard to such claims. The discussion in *Noble*, Docket No. 2503, the *SS Elena Valdez* cases, Docket Nos. 3087, 3247, 3297, and 3383, *Tomas MacManus*, Docket 905, *Chihuahua Copper Mining Company*, Docket No. 436, *Mexican Asphalt and Paving Company*, Docket No. 59, and *E. I. Dupont de Nemours & Company*, Docket No. 112, among others, brought to me the realization that the Commissioners were about to reach a dead end. I did not, however, let the matter rest with this realization, but subsequently and in fact until June, 1937 I sought by deferential suggestion to convey my own impression with regard to the arbitration, which was that the Commissioners could reach a substantially successful conclusion if they would continue to make endeavors to reach a common ground for appraising the meritorious cases justly, and I tried to make it clear that I was not disturbed by the fact that there is naturally and historically a particular Mexican viewpoint in matters of international law. I suggested that if we should go ahead along these lines it would become evident that I was willing to recognize the lack of merit of American cases, however large, when they did lack merit; but I hoped for a reasonable showing that those which were meritorious would be recognized as such, rather than be rejected upon points of local municipal law, or those technical but unsubstantial objections which may be made in any case. I asked for suggestions but there was no response. I was forced to the conclusion that present events and the developments of the times are such that conditions are not yet ripe for a full and free arbitration of these matters between Mexico and the United States.

“ . . . <sup>38a</sup> It was certainly evident to us that Mr. Flores <sup>39</sup> and his staff were entirely at home with us and under no restraint whatever. I have much respect for Commissioner Flores and I do not attribute any of these difficulties to him, but I merely feel that they were derived from larger measures of which he was not in control.”

The Mexican Government now advances the proposition, as indicated above, that we cannot proceed to a completion of the claims work under the protocol either by a lump sum settlement or by reference of the unadjudicated cases to an umpire, since the Commissioners did not discuss all of the cases despite the fact that it seems perfectly obvious, although the Mexican Government does not admit this, that the cases could have been discussed in good time had the Mexican Commissioner been willing to join Mr. Underwood in such discussion.

As a matter of fact, the Commissioners, even though they did not discuss all the cases, have complied with the conditions laid down in paragraph fourth of the protocol, that is to say, they have submitted to the two Governments a joint report of the results of the conferences and have indicated the cases on which they agreed and the cases on which they were unable to agree. That is all that paragraph fourth requires, although it was of course contemplated that all cases would be discussed. Mr. Cordova contends—and that, of course, is the view of his Government—that the Commissioners should have discussed all the cases and based their report upon such discussion. Such a contention, if followed, would mean that the Mexican Commissioner could forever and a day prevent a settlement of the claims by merely declining to discuss, as he did, certain of the cases. Nothing like that was ever in contemplation at the time the protocol was completed. Mr. Cordova also contends that an appraisal by the Commissioners was deemed necessary as a condition precedent to arriving at a lump sum settlement, to which we replied that insofar as the American Commissioner is concerned we have his appraisals of all the cases. That Government undoubtedly knows or could soon obtain the appraisals of its own Commissioner. This argument would therefore appear to be a subterfuge.

Mr. Cordova made it plain in the course of the conversation that his Government was not willing to risk the possibility of being required to take the second step contemplated by the fifth paragraph of the protocol, namely, the submission of the cases to an umpire. He mentioned in particular the agrarian land cases, on which he stated his Government could not risk a decision requiring it to make payment for such lands. He stated that the Mexican Government had been committed to the agrarian policy since 1910. We told him that we had no desire to force an issue on the agrarian claims or any other claim or

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<sup>38a</sup> Omission indicated in the original memorandum.

<sup>39</sup> Benito Flores, Mexican Commissioner, General Claims Commission.

class of claims and that our only and sole desire was to obtain a settlement that would be reasonably fair to the American claimants, and that insofar as we are concerned every effort would be made, if discussions were entered into, to reach an agreement on a lump sum basis, but that it was our feeling that we could not undertake a discussion outside the protocol as desired by him; that such a discussion, if it should fail, would amount to taking the first step contemplated by the fifth paragraph of the protocol without any other step being open to us, to which he agreed, except that he stated that he personally had some other method of settlement in mind which he was not free to divulge at that time. I told him that we felt that we were under the necessity of staying within the terms of the protocol but that I would let him know within the next two or three days whether it would be possible to open discussions on the basis suggested by his Government.

It is my view that we would be at a distinct disadvantage to undertake a discussion of the lump sum settlement unless such discussion should take place pursuant to the terms of the protocol; that it would be better to allow the Mexican Government to be in the position of having refused to carry out the terms of the protocol than be placed in a position where it could say that we had departed from the protocol and that therefore it is no longer applicable. It is my suggestion that we should tell Mr. Cordova that we cannot proceed on the basis proposed by him; also that we should make strong representations to the Mexican Government with a view to going forward in the manner agreed upon in 1934.<sup>40</sup>

GREEN H. HACKWORTH

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REPRESENTATIONS AGAINST INCREASES IN MEXICAN IMPORT  
TARIFF RATES

612.003/706

*Memorandum by the Adviser on International Economic Affairs  
(Feis) to the Under Secretary of State (Welles)*

[WASHINGTON,] December 14, 1937.

MR. WELLES: I attach the memorandum handed you yesterday by the Mexican Minister of Finance, together with a rough translation made in this Office.<sup>41</sup> We are making a critical examination of its factual aspects now. The first impression is that the memorandum overstates the amount of existing imports necessary to Mexico to keep

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<sup>40</sup> Apparently there were no further negotiations on this subject in 1938.

<sup>41</sup> Memorandum entitled "Balance of Payments of the Foreign Commerce of Mexico and Increase of the Import Tariff"; not printed.

its exchange stable, certainly as long as it does not meet any more of its external obligations than it has recently met. The memorandum is in general intended to be a justification of the necessity of reducing imports, by increasing tariffs.

Do you believe it is desirable to give them a memorandum in reply? <sup>42</sup>

H[ERBERT] F[EIS]

612.003/713

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 6014

MEXICO, January 21, 1938.

[Received January 26.]

SIR: I have the honor to report that as soon as I learned that the Minister of Hacienda <sup>43</sup> had issued a decree <sup>44</sup> increasing tariff duties, I wired the fact to the Department (telegram 14 of January 19, 7 p. m.)<sup>45</sup> and sent by night letter an analysis of the increases which was prepared by Mr. McLaughlin, Acting Commercial Attaché. Further reports with reference to these tariff rates were prepared by the office of the Commercial Attaché and wired to the Department of Commerce with the request that copies be furnished the State Department.

I had heard no intimation that the tariff schedules were to be altered and therefore the news was as great a surprise as it was a matter for regret.

Yesterday I went to see Mr. Suárez, Minister of Finance, and asked about the increases and the reasons therefor. He said that when he was in Washington discussing the financial situation of Mexico with Secretary Hull and Undersecretary Welles, he had mentioned the probability that Mexico might be forced to take such a regrettable step in order to stabilize the peso. He said he told them this stabilization must be done at any cost. I asked Mr. Suárez whether Mr. Hull agreed to the increases in the tariff. He said "No", and I gathered the contrary, but Mr. Suárez said he had assured Mr. Hull that if the necessity should present itself the change would be temporary and the rates would be restored at the first possible moment. "It is temporary, and as soon as prices are readjusted and exchange is on a firmer basis, I shall restore the duties as formerly," he added.

The obvious outcome will be an increase to Mexican consumers of all articles purchased abroad, and as over sixty per cent of all purchases made by Mexicans from other countries comes from the United

<sup>42</sup> A notation by Sumner Welles on this document reads, "I do not."

<sup>43</sup> Eduardo Suárez.

<sup>44</sup> Approved December 30, 1937, *Diario Oficial*, December 31, 1937.

<sup>45</sup> Not found in Department files.

States, this change will work the greatest injury to our country. It will not, however, affect purchases made by the Mexican Government from the United States, as no duties are assessed on such articles. The Government is a large purchaser of machinery of all kinds from our country, eighteen locomotive engines having been recently purchased from American companies.

On the same day I had called on the Minister for Foreign Affairs<sup>46</sup> and told him of my feeling that these tariff increases were contrary to the declaration of the Buenos Aires Conference<sup>47</sup> and that they raised instead of lowered trade barriers, contrary to the spirit of the resolutions of the Pan American Conference. General Hay informed me that he was not familiar with the details of the tariff changes and suggested that I discuss the matter with Minister Suárez.

Before I talked with Mr. Suárez I requested the Acting Commercial Attaché to go to Hacienda and obtain all possible information. He did so, and made the following report about his conversation on both the oil and tariff situation :

Accompanied by Assistant Trade Commissioner Miles Hammond I had a very cordial interview at twelve noon with Licenciado Eduardo Suárez, Secretary of the Treasury.

I told the Minister that American business interests have shown much concern over the tariff decree made public on the 17th and 18th of this week through publication of the decree itself in the *Diario Oficial* of December 31, 1937. I advised him that particular concern had been evidenced as to merchandise already in transit at the time the decree was made public knowledge. The Minister told me that he has given instructions to the Customs Department to permit the entry under the old tariff rates of merchandise which had left ports of exit on or before January 17th. The Minister said that it was with great reluctance that he had increased duties and that he only did so following a discussion of the necessity with Secretary of State Hull. He assured me that the duty increases are entirely temporary and that if economic conditions in the country warrant it, he will request the Congress in March to lower the duties again back to the old rates, if possible. The reason ascribed by the Secretary for the present tariff increase is his desire to prevent the inflow of large quantities of merchandise. He stated he will lose a considerable amount of revenue as the result of the increase in duties. He has observed that prices in the United States have shown a tendency to decrease as have, in his opinion, prices in other countries. On the other hand, prices in Mexico, the Secretary states, are firm with a tendency to increase. He believes that during the next few months and by discouraging imports, prices will tend to equalize themselves.

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<sup>46</sup> Eduardo Hay.

<sup>47</sup> Resolution XLIV, Equality of Treatment in International Trade; Resolution XLVI, Restrictions on International Trade, *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936* (Washington, Government Printing Office, 1937), pp. 240, 242.



I asked the Minister if his view of "better economic conditions" contemplated a prior settlement of the present oil difficulty.<sup>48</sup> He said that it did and that he had every reason to believe that the oil difficulty might be satisfactorily settled within the next few days. He said that the Government at present is discussing with petroleum officials the amount of the bond to be filed and that he thought the amount would be determined within a day or two. He said that from that point on the matter would be in the hands of the Supreme Court for determination.

The Secretary also advised me that he has prepared a bill to be submitted to the Congress in March, which will for all practical purposes do away entirely with the three per cent income tax on manufacturers shipping merchandise into Mexico. He said that depending on economic conditions this tax might be changed to a form of customs tax and might be reduced to as low as one per cent. I asked him if Mexican corporations with purchasing agencies or affiliates in the United States would be permitted to deduct from their Mexican income tax the payment of whatever amounts might be invoked as a result of the elimination of the three per cent tax as at present applied. He said that he could give me no information on the subject other than that such a set-off was under consideration.

In connection with our discussions of the petroleum situation the Secretary advised me that the present production of the Government-owned Administración Nacional de Petróleo is 13,000 barrels per day and that within four more months the production would be 26,000 barrels per day. The Secretary added that by November he anticipated the daily production of Government petroleum would be 40,000 barrels a day. He said that much of this latter would come from the Poza Rica field as the result of the Government's agreement with El Aguila. Apparently El Aguila intends to go through with its Poza Rica contract. This, the Secretary intimated, it would have to do in any event in order to retain its concessions. The Secretary seemed very much satisfied with the present operations of the Administración Nacional de Petróleo and the services of certain American experts employed as drillers. In connection with the Treasury Department's interest in petroleum equipment, the Secretary volunteered the information that he thought funds would be available through Stewart and Company of New York at any time he might wish to obtain them.

The Secretary's program for the betterment of economic conditions in Mexico appears to involve, judging from his statements, first, the reduction of imports; second, the encouragement of domestic industry and production of articles of necessity at low prices; and third, the enlarging of the volume of production of Government petroleum—this, of course, for export purposes.

I shall keep the Department posted as to the workings of the tariff changes and the oil situation.

Respectfully yours,

JOSEPHUS DANIELS

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<sup>48</sup> See pp. 720 ff.

612.003/708

*Memorandum of Conversation, by the Secretary of State*

[WASHINGTON,] January 22, 1938.

The Ambassador of Mexico<sup>49</sup> came in upon my request. He inquired how I was getting along. I replied that I was overwhelmed with acute and difficult problems in the Pacific area and in Europe most of the time, and that, to my immense surprise, a real problem in a Latin American country had presented itself. I said that he could imagine my astonishment and that of most everybody in this country when they woke up yesterday morning and discovered that by a stroke of the pen the Mexican Government had done what perhaps no other important country in the world had ever done, especially in peace time, and that was to increase, without regard to the economic facts and without notice to anybody, more than 200 tariff rates, that is, about one-third of the commodity tariff rates imposed by Mexico were increased more than 200 percent on the average, to say nothing of the discriminating effects against our country; and that these rates were made to take effect retroactively, thus doing grave injustice to shippers and present contracts.

I then remarked to the Ambassador that he knew how long and earnestly I had striven to promote the good neighbor policy, and to bring about mutually profitable and cooperative relations between the people of our two countries, as well as of other countries; and that my whole efforts and aims were concentrated on that undertaking. I said it was tragic that, just at a time when we were striving to organize some thirty-five nations behind the program for the promotion and preservation of peace through trade, and to confront the German and Italian Governments with a broad world program dealing with every phase of the problems relating to economic appeasement and international order and conditions of permanent peace among nations, Mexico strikes the hardest possible blow against the prestige and the merits of this undertaking. I stated that I could not begin to express my deep and lasting disappointment, especially when this great program of economic appeasement was the only possible means of diverting the European countries from the road to militarism and aggression, and correspondingly discouraging Japan from her plans and purposes to create international anarchy in one-half of the world. I went on to say that, of course, I knew how the Ambassador had fought with me for these objectives and how deeply he felt on the general subject.

I then referred to the fact that, when Minister of the Treasury Suarez was here some weeks ago and came to my office and said that

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<sup>49</sup> Francisco Castillo Nájera.

he did not see how he could get along without some increases temporarily of certain tariffs, I plead with him for forty-five minutes not to take such action. I pointed out how logical and wise it would be if his Government would move back to basic domestic policies, and thus take the one and only road away from a course that would get Mexico into deeper mud and mire the further she pursued an unsound domestic policy. I stated that it was clear that she could gradually move back on a sound course, thus giving confidence to people both in and out of Mexico, but that instead of doing this Mexico was still pursuing a hopelessly unsound course, which was not only scaring the capital of non-resident citizens out of Mexico but was scaring outside of that country domestic capital owned by Mexican citizens. I said that it ought to be patent to all that these conditions were impossible and will inevitably become more so, and that this amazing increase of tariffs was like a dose of morphine. It will seem good and comfortable from four to six months perhaps and then the patient will be still worse off by far, and looking in every direction for another temporary and expedient method to tide him over another few months when still another temporary and expedient device will be sought. In the end instead of helping the good neighbor policy, so far as Mexico and this country are concerned, the effect would be exactly the opposite.

I went on to say that, of course, I knew how the Ambassador himself felt about all these things, but that I would not be his friend, or the friend of his country and of mine, as well as of the great world movement we were interested in, if I did not frankly bring to his attention in the most earnest manner the extreme danger of the whole relationship between our two countries being jeopardized and injured for years to come by a threatened explosion in one or both Houses of the American Congress. Nobody here dreamed that, if Minister Suarez should override our advice and our pleas not to raise tariffs still further, they would be increased to the unimaginable heights of more than 200 percent on the average. I further emphasized the virtual impossibility of keeping alive and carrying forward in the mind of the public and with sustained public support our good neighbor policy without the cooperation of all concerned, and that such a policy could scarcely have been worse served by any one country than by the course adopted by Mexico.

I came back again to the earnest emphasis upon the necessity for Mexico getting back to sound basic and domestic policy as the only way out. The American public does not know what Mexico contemplates in the future with respect to debts, land seizures,<sup>50</sup> labor and oil controversies, and similar policies and practices, with regard to which

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<sup>50</sup> See pp. 657 ff.

the Mexican Government thus far is understood to be indulging in every manner of excess. I said that I had been making personal appeals to Senators and Congressmen not to start an explosion in Congress concerning these various excesses and resulting injuries to American nationals. Congress has in its possession enough facts relative to unfair treatment of American nationals, especially in connection with land seizures, to present a very damaging picture to the American people, and that any day, if matters continue to develop as they have thus far in Mexico, we may have a violent eruption in one or both Houses of Congress, which will be calculated to bring about misunderstanding and hard feelings between our two countries for years to come.

I further remarked that no country in distress can get out of its difficulties overnight, and that when domestic planning for relief, reform and progress is carried forward too rapidly and too furiously, all past experience everywhere shows that it results in reaction and disaster. I stated that I desired to repeat for the fiftieth time my position and that of my Government and country to the effect that we would not have a single one of our citizens get one penny of improper advantage of the Mexican Government or its people in any line of business relations, and that, when the above conditions were possible or prospective, we would stand all the more strongly for the policy of fair treatment and fair dealing to every Mexican citizen and to the Mexican Government. I remarked that, of course, this policy cannot work just one way and that, so far, the American people were getting the definite impression that the Mexican Government and its people do not appreciate what we have been endeavoring to do, not only with respect to carrying out this rule of fair dealing but also with respect to all the other ways in which we have offered help to the Mexican Government and its people, as in the case of the silver purchases.

Finally, I referred again to the tariff increases as being unprecedented within my knowledge in any country of any consequence; that from no conceivable standpoint is it imaginable for a great country like Mexico, even if she were not interested in the Buenos Aires policies of an economic nature and the commitments of all of our governments in their support, or if she were not at all interested in the long view planning with respect to her domestic situation, to have a real justification for such amazing increases of one-third of her customs tariff as have occurred; that most of such increases are discriminatory against the United States; and yet the Mexican Government expects us to go on with all of our methods of help to her and her people, while this Government and its people, not only have failed to receive cooperation which is at all satisfactory, but have suffered losses and injuries. I said that the Ambassador knew how

long and earnestly many of us have been working to carry forward the good neighbor policy, how much we thought of the Mexican people and how anxious we were not only to help them to an increasing extent, but also to have the powerful influence and cooperation of that great country in carrying forward the good neighbor policy at home and abroad, including the program of peace through trade. The Ambassador referred again to the tariff increases and said that he was surprised at the extent of the increases and said that he would telephone Minister Suarez and also send him an air mail letter. I then especially requested the Ambassador to keep in touch with me with regard to developments.

C[ORDELL] H[ULL]

612.008/730

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 6070

MEXICO, February 8, 1938.

[Received February 14.]

SIR: I have the honor to refer to my despatches 6067 of February 4, and 6068 of February 5, 1938,<sup>51</sup> transmitting the products of exhaustive surveys of the increased tariff schedules put into effect by Mexico last month, which were prepared in the office of the Commercial Attaché. I am enclosing today a letter from Mr. Edward D. McLaughlin, Acting Commercial Attaché,<sup>52</sup> which contains a study made with a view to ascertaining whether the increases bear more heavily upon the United States than upon other nations: that is to say, whether there has been, as had been alleged, a special discrimination against the United States. The result of this study does not indicate any intended discrimination against the United States and seems to bear out—though unintentionally, I am sure—what the Minister of Hacienda told me: that Germany was hit harder than other nations.

I understand that Hacienda officials and experts are making a similar study so that the Minister and the President may know the actual workings of the new rates. These studies and reports will not, of course, affect the seriousness and unwisdom of the raising of commercial barriers in violation both of the letter and the spirit of the declarations for which both Mexico and the United States voted at the Buenos Aires Conference last year.

Respectfully yours,

JOSEPHUS DANIELS

<sup>51</sup> Neither printed.

<sup>52</sup> Not printed.

612.003/746 : Telegram

*The Chargé in Mexico (Boal) to the Secretary of State*

MEXICO, May 19, 1938—7 p. m.

[Received 10:45 p. m.]

209. Yesterday Suarez sent two decrees to Congress affecting some 419 fractions of the import tariff schedule. Of the 218 import fractions specified and published in the *Diario Oficial* of December 31, 166 were reduced to the December rates; 41 increased over the December rates; 7 decreased below the December rates; 2 remained at May 1 schedule and 2 fractions were canceled. The 41 fractions increased over December level include barbed wire, tinplate, iron and steel articles up to 9 kilos; artificial silk cloth, wool velvet, varnishes and paints; steam hydraulic and gas engines, radios with cabinet, automobiles and spare parts for agricultural and industrial machinery. The 7 fractions decreased below December rates include crude rubber and printed books. The above refers only to the tariff changes reported in *Diario Oficial* of December 31.

In addition the second decree involves changes in 201 fractions including 84 decreases, 38 increases and 79 reclassifications or changes in wording the effect of which we have not yet determined.

Details by air mail tomorrow on first decree involving fractions affected by the December 31 tariff. Other changes will follow by day after tomorrow's air mail.

Once these decrees are enacted into law by the Congress they will automatically eliminate all the intermediary rates which went into effect on May 1 excepting two or three.

Please inform Commerce.

In view of the fact that the new tariff contrary to expectations contemplates maintaining a considerable number of increases over the December 31 rates, after discussing matter in a preliminary and informal way this morning with General Hay I made appointment to go with Lockett<sup>53</sup> to see Licenciado Suarez tomorrow, May 20, 4 p. m., to see if anything can be done to modify some of these rates favorably to American importers. If the Department has any views which it would wish expressed to Licenciado Suarez or instructions with regard to the discussion of this matter with him, I should appreciate receiving telegraphic instructions by noon May 20.

BOAL

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<sup>53</sup> Thomas H. Lockett, Commercial Attaché.

612.003/746 : Telegram

*The Secretary of State to the Chargé in Mexico (Boal)*

WASHINGTON, May 20, 1938—1 p. m.

100. Your 209, May 19, 7 p. m. You may express appreciation of proposed action to reduce rates in a number of items, but reiterate that despite the fact that this Government recognizes fully the right of the Mexican Government to regulate its tariff rate in accordance with what it considers to be its best interests, this Government is greatly disappointed that the new tariff decree has not resulted in a reduction in all cases to at least the rates in effect prior to December 1937.

HULL

612.003/747 : Telegram

*The Chargé in Mexico (Boal) to the Secretary of State*

MEXICO, May 20, 1938—10 p. m.

[Received May 21—1 : 50 a. m.]

213. My 209, May 19, 7 p. m., and Department's 100, May 20, 1 p. m. Lockett and I saw Suarez this afternoon and discussed the new tariff with him in the sense your telegram. The Minister took the position that there had been no increases over the December 31 rates, but upon our citing figures, called in the chief of his Tariff Department, who was obliged to admit that the new tariff in many instances failed to return to the December 31 levels, and in other instances, that new increases had been made in rates not previously increased. Suarez then said that he had made a definite commitment to our Government that there would be no increases in rates and that rates would be returned in all cases to the December 31 levels. In our presence he instructed the chief of the Tariff Department to prepare substitute schedules for the Congress reducing all rates to the December 31 levels (in a few cases reducing rates below these levels) and canceling all increases.

He made an exception in the matter of automobile rates stating that these rates had been maintained or increased at the request of American automobile manufacturers having assembly plants here. He remarked that General Motors and Ford have assembly plants here and Chrysler has approached him with a view to installing an assembly plant. He asked whether in spite of this situation on the part of these automobile manufacturers our Government felt that automobile rates should be reduced to the December 31 level. He

pointed out, of course, that he was particularly anxious not to do so as the protection provided by the high rates meant employment in assembly work for a considerable number of Mexican laborers. I said that I would prefer to defer reply on this point and would get in touch with him later. I would appreciate having the Department's views.

In view of the assurances given me by the Minister today Lockett requested that all that part of telegram No. 209<sup>54</sup> preceding the words "please inform Commerce" be disregarded by the Department of Commerce and that his airmail communications transmitting particulars on these figures to Commerce via the State Department be held in the Department so that he may substitute the rewritten tariff rates for them.

The Minister made it clear that while the Congress did not usually alter his tariff bills he could do nothing more, of course, than assure us he would make the changes in the proposals to the Congress.

BOAL

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612.003/752

*The Chargé in Mexico (Boal) to the Secretary of State*

No. 6862

MEXICO, June 17, 1938.

[Received June 20.]

SIR: I have the honor to enclose herewith a memorandum from the Commercial Attaché of the Embassy, dated today,<sup>55</sup> regarding the reduction of the Mexican import tariffs, which was the subject of my telegram No. 213 of May 20, 10 p. m., and of my strictly confidential despatch No. 6703 of May 21, 1938.<sup>56</sup>

I have called twice on the Minister of Finance in connection with these tariffs, in company with the Commercial Attaché, and the latter has checked each item of the tariff with the appropriate officials at the Ministry of Hacienda. It now appears that, with the exception of automobiles, trucks and possibly tires on automobiles assembled in the Republic, and two or three other minor items, the Minister of Finance expects to bring about a reduction to December 31 levels, or lower. It seems inadvisable to delay submission of the reductions to Congress further for the sake of two or three minor items, which can be taken up in a later decree. The important thing now would seem to be to secure timely congressional action, since the great bulk of the reductions desired has now been suggested to the Congress.

Respectfully yours,

PIERRE DE L. BOAL

<sup>54</sup> May 19, 7 p. m., p. 780.

<sup>55</sup> Not printed.

<sup>56</sup> Despatch No. 6703 not printed.



612.003/765

*The Consul at Mexico City (Galbraith) to the Secretary of State*

MEXICO, September 29, 1938.

Reference is made to the following reports submitted by this Consulate General:

<i>Date</i>	<i>Title</i>
January 19, 1938	Extensive Changes in Mexican Import Duties. <sup>57</sup>
January 27, 1938	Extensive Changes in Mexican Import Duties: Translation of <sup>57</sup>
January 27, 1938	Effective Date of Recent Extensive Changes in Mexican Import Duties <sup>57</sup>
September 21, 1938	Changes in Mexico Import Tariff <sup>58</sup>

There is enclosed a translation of a Decree dated August 13, 1938,<sup>58</sup> making extensive reductions in the Mexican import tariff. This Decree appeared in the Mexican federal *Diario Oficial* of August 22, 1938.

There are 200 classifications mentioned, the effect of the Decree being to return import duties to exactly what they were prior to the changes which took effect on January 21, 1938, as reported in the first three of the above-cited reports, with six exceptions. Of these six exceptions, one is a reduction: Fraction 7.56.92 "Printed books, not specified, with covers of cardboard, leather or cloth" formerly carried a duty of ten centavos per gross kilo but is now duty free. The other five exceptions are fractions which affect automobiles: Fraction 9.52.00 covering four cylinder automobiles was formerly 180 pesos per car and is now 250 pesos; Fraction 9.52.05 covering automobiles of more than eight cylinders was formerly 1,000 pesos per car and is now 2,000 pesos; and Fractions 9.52.11, 9.52.12, and 9.52.13 covering trucks with stake bodies, closed or unspecified bodies, and tank trucks were formerly 150 pesos per car and are now 300 pesos.

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<sup>57</sup> Not found in Department files.

<sup>58</sup> Not printed.

## NICARAGUA

### AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA MODIFYING IN CERTAIN RESPECTS THE RECIPROCAL TRADE AGREEMENT OF MARCH 11, 1936, SIGNED FEBRUARY 8, 1938

617.008/242 : Telegram

*The Minister in Nicaragua (Long) to the Secretary of State*

MANAGUA, January 10, 1938—6 p. m.  
[Received 8:10 p. m.]

3. I have today received official note dated January 7 from Foreign Office saying in brief: On the basis of law of June 30, 1933 (See Legation despatch No. 1304, March 5, 1936<sup>1</sup>) and monetary law of March 20, 1912, Nicaragua intends to increase exchange rate for payment of customs import duties "fixed in the legal cordoba, equivalent to the dollar of the United States". (In other words, Nicaragua, following the procedure described in Legation despatch No. 724, November 17, 1937,<sup>1</sup> wishes to consider unit for customs duty payment as equivalent to the American dollar and to require the payment of this unit in cordobas at official rate of exchange for dollars. A duty of 5 "customs cordobas" would require (at 400 percent today's official rate of exchange) the payment of 20 paper cordobas.) The Foreign Office writes that, in its opinion, this action does not contravene the trade agreement<sup>2</sup> (consequently, it is to be assumed, not requesting modification of the agreement.) The Foreign Office states that the Government intends to place this new disposition into effect within a few days.

This approach to the matter came as something of a surprise since the President and Minister of Hacienda<sup>3</sup> had spoken with me informally regarding the possibility of getting quick action by the State Department should they propose modification of the trade agreement.

I am sending copy of the note with Wednesday's air mail.<sup>1</sup>

LONG

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<sup>1</sup> Not printed.

<sup>2</sup> Signed March 11, 1936, Department of State Executive Agreement Series No. 95, or 50 Stat. 1413; see also *Foreign Relations*, 1936, vol. v, pp. 782 ff.

<sup>3</sup> José Benito Ramírez.

617.003/242 : Telegram

*The Secretary of State to the Minister in Nicaragua (Long)*

WASHINGTON, January 12, 1938—7 p. m.

4. Your telegram No. 3, January 10, 6 p. m. You should inform the Nicaraguan Foreign Minister <sup>4</sup> that the proposed increase in the rate of exchange for the payment of import duties which would require that import duties prescribed in Schedule I of the trade agreement be paid in cordobas at the official rate of exchange for the United States dollar involves the important question of the effect of the proposed measure upon the trade agreement. The Department hopes that action in regard to the measure will be deferred until the views of this Government with respect thereto can be communicated to the Nicaraguan Government. The Department hopes to be able to transmit such views within a few days.

HULL

617.003/243 : Telegram

*The Minister in Nicaragua (Long) to the Secretary of State*

MANAGUA, January 13, 1938—noon.

[Received 2:55 p. m.]

5. Department's telegram 4, January 12, 7 p. m. (1) Substance of Department's telegram Number 4 has been communicated to Minister for Foreign Affairs who will discuss this matter after a Cabinet meeting when I will again report by telegraph.

(2) Regarding official rate of exchange for gold cordoba, 4 to 1 rate for payment of customs duties was discussed at Cabinet meeting Tuesday and it was found that it would cause too high a cost for imported merchandise. Two to one rate was favored—with the thought it could be raised at will. No final decision was reached but the desire is to keep it as low as practicable. In any event an increase in rate is contemplated.

LONG

617.003/243 : Telegram

*The Secretary of State to the Minister in Nicaragua (Long)*

WASHINGTON, January 24, 1938—5 p. m.

6. Your telegram No. 5, January 13, noon. You should inform the Foreign Minister that this Government is of the opinion that the collection of import duties on the products contained in Schedule I

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<sup>4</sup> Manuel Cordero Reyes.

of the trade agreement in a greater amount of circulating cordobas than specified in that schedule would constitute a contravention of the trade agreement. If the Nicaraguan Government because of the financial difficulties with which it is confronted feels compelled to collect a greater amount of circulating cordobas on articles contained in Schedule I than are specified therein, and desires freedom of action for that purpose, this Government believes that some arrangement could be made whereby such freedom with respect to the duty bindings and reductions in Schedules I and II of the agreement could be provided for on comparatively short notice.

Although the Department fully appreciates the difficulties at present confronting the Nicaraguan Government, it desires you to urge that it take no action with respect to import duties on Schedule I products until such an arrangement can be worked out.

HULL

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617.003/259

*Memorandum of Conversation, by the Acting Chief of the  
Division of the American Republics (Briggs)*

[WASHINGTON,] January 27, 1938.

Mr. Long said that the Minister for Foreign Affairs had just brought to the Legation a memorandum on the proposed increase in the cordoba collection rate for import duties, which he would read to Mr. Briggs. The text of the memorandum is as follows:

"The Legation is already aware of the point of view of the Government of Nicaragua that the Trade Agreement with the United States would not be violated by the increase in terms of cordobas of duties on imports, including those for merchandise specified in Schedule I of the agreement, on account of the depreciation of the cordoba compared with its legal value. The Department of State seems to have a divergent criterion. In order to avoid a controversy in this matter my Government would appreciate hearing the suggestions of your Department concerning the manner of arriving, in the least time possible, at an arrangement which would give it the necessary liberty to effect the increase referred to in the import duties. It is its hope that such an arrangement can be made by an exchange of notes as to the interpretation of the corresponding articles of the trade agreement."

Mr. Briggs said that what we have in mind is an exchange of notes which would terminate the articles having to do with the schedules, leaving the other parts of the Trade Agreement in full effect, and our Trade Agreements Division has been working very hard on the matter with the Legal Division and we have made considerable progress on it, and we hope to get it approved as far as the text is concerned by tomorrow. Under the terms, however, of the Trade Agreement an

exchange of notes would be effective at the end of 30 days from the date of exchange. That is what we have had in mind and what we have tried to work out. It has, however, involved difficulties.

Mr. Long said that he hoped that the matter could be handled promptly, as the Nicaraguan Government felt that it was losing revenues every day that the new rate was delayed, and that the financial situation was critical.

Mr. Long said that the Minister for Foreign Affairs had inquired if there would be any obstacle to applying the increased collection rate to articles not on Schedule I.

Mr. Briggs replied that in the opinion of the Trade Agreements Division the provisions of Article XI require 30 days' notice of any administrative increase in import duties, which would presumably be an obstacle.

Mr. Briggs assured Mr. Long that the Department would send him a telegram just as soon as the suggested solution outlined over the telephone could be adopted and fully approved by the Department. He hoped very much that it would go out tomorrow, but he, of course, could not guarantee it.

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617.003/243 : Telegram

*The Secretary of State to the Minister in Nicaragua (Long)*

WASHINGTON, February 1, 1938—5 p. m.

8. Department's No. 6, January 24. 1. As indicated in telephone conversation Thursday, the Department feels that the most desirable method whereby Nicaragua would be permitted the freedom of action it wishes with regard to the collection of customs duties on Schedule I products would be to terminate the provisions of the Agreement relating to the rates of duty in the two schedules. If this procedure meets the desire of and is acceptable to the Nicaraguan Government, you may submit to the Foreign Office the following text of an exchange of notes effecting the termination of the pertinent provisions of the agreement:

Note to be addressed by the Nicaraguan Government to you:

“Reference is made to recent conversations which have taken place with regard to the desire of the Government of Nicaragua, in view of the emergency financial conditions with which it finds itself confronted, that the trade agreement between the Republic of Nicaragua and the United States of America, signed at Managua on March 11, 1936, be modified in certain respects.

I now have the honor to confirm and make of record by this note the agreement which, as a result of the conversations referred to, has been reached between the Government of Nicaragua and the Government of the United States that the provisions of Article I, the first

paragraph of Article II, Article III (except insofar as it relates to Note I to Schedule I appended to the Agreement), and Article V of the Agreement of March 11, 1936, shall cease to have force and effect on and after (blank date).

The Government of Nicaragua will be pleased to enter into negotiations with the Government of the United States, at the earliest practicable date, for the renewal or <sup>7</sup> replacement of the provisions of the above-mentioned Articles of the Agreement of March 11, 1936."

The note to be addressed by you to the Nicaraguan Government would be identical with the foregoing *mutatis mutandis*, except for the last paragraph which would read as follows:

"The Government of the United States has noted with pleasure the willingness of the Government of Nicaragua to enter into negotiations, at the earliest practicable date, for the replacement of the provisions of the above-mentioned Articles of the Agreement of March 11, 1936."

2. The date on which the exchange of notes would take effect would be 30 days after their exchange.

3. It will be necessary for the Department to make public the notes terminating the tariff concessions in the Agreement. Mention has been made in the notes of the circumstances giving rise to the termination in order to avoid the necessity for detailed explanation in the press release which will accompany the publication of the notes. The Department believes that the Nicaraguan Government will agree that it will be desirable to avoid giving undue emphasis to these circumstances.

4. With reference to the last paragraph in the draft notes, you should say to the Nicaraguan authorities that the Department regrets that termination of the tariff concessions in the trade agreement appears to offer the only practicable solution of the present problem. It is accordingly felt that it would be most desirable if the notes were to give some indication that the action taken is not necessarily of a permanent nature. You should further state that this Government would not regard the last paragraph of the Nicaraguan note as constituting a commitment on the part of the Nicaraguan Government, but rather as a welcome indication by that Government of its willingness to enter into new negotiations whenever it feels that it is in a position to do so.

5. Please inform the Department whether the foregoing procedure and the notes are acceptable to the Nicaraguan Government. If acceptable, the Department will advise you as to the day on which you are authorized to proceed with the exchange.

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<sup>7</sup>The words "renewal or" were inserted in accordance with Department's telegraphic instruction No. 9 of February 3, 5 p. m., to the Minister in Nicaragua (617.003/249).

6. There will be no increase in United States duties applicable to Nicaraguan products as a result of the termination of the tariff concessions in the Agreement. The Department assumes from your reports that the Nicaraguan Government does not contemplate an increase in the basic rates of duty specified in Schedule I of the trade agreement, but rather an increase in the rate of conversion between the paper cordoba and the gold cordoba. Please obtain confirmation of the Department's understanding, if correct, and ascertain whether the Nicaraguan Government would have any objection to a statement to this effect in our press release.

7. With reference to your telephone conversation Thursday, the Department considers that the provisions of Article XI of the trade agreement requiring 30 days' advance notice of administrative rulings effecting advances in rates of duty or in charges applicable to imports apply to the contemplated increase in the amount of paper cordobas to be collected per gold cordoba, as regards both schedule and non-schedule products.

HULL

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617.003/250 : Telegram

*The Minister in Nicaragua (Long) to the Secretary of State*

MANAGUA, February 4, 1938—6 p. m.

[Received 10:37 p. m.]

15. The Department's assumption under caption 6 in its telegram No. 8, February 1, 5 p. m. is correct and statement may be included in its release that the Nicaraguan Government does not contemplate an increase in the basic rates of duty specified in Schedule I of the trade agreement but rather in the rate of conversion between the paper cordoba and the gold cordoba.

Foreign Minister offered to include this in Nicaragua's note. If this is considered desirable please indicate form.

LONG

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617.003/250 : Telegram

*The Secretary of State to the Minister in Nicaragua (Long)*

WASHINGTON, February 5, 1938—3 p. m.

10. Your telegram No. 15, February 4, 6 p. m. You should inform the Nicaraguan Foreign Minister that the Department is glad to note that the Nicaragua Government does not contemplate an increase in the basic rates of duty now specified in Schedule I of the trade agreement, and would be pleased to have a statement to that effect included in the proposed exchange of notes. You should accordingly suggest the

inclusion of the following as a new paragraph immediately preceding the final paragraph of the note to be addressed by the Nicaraguan Foreign Minister to you: "I have the further honor to confirm that, while the conversion rate between the paper cordoba and gold cordoba will be increased for customs collection purposes, the Government of Nicaragua does not contemplate an increase in the basic rates of duty now specified in Schedule I of the trade agreement".

If the foregoing is included in the Foreign Minister's note to you, the following should be included as a new paragraph immediately preceding the final paragraph of the note addressed by you to the Foreign Minister: "The Government of the United States has noted that, while the conversion rate between the paper cordoba and gold cordoba will be increased for customs collection purposes, the Government of Nicaragua does not contemplate an increase in the basic rates of duty now specified in Schedule I of the trade agreement".

Upon telegraphic report from you as to whether the above quoted paragraphs are acceptable to the Nicaraguan Government, the Department will advise you as to the date on which you are authorized to sign.

HULL

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617.003/251 : Telegram

*The Minister in Nicaragua (Long) to the Secretary of State*

MANAGUA, February 7, 1938—1 p. m.  
[Received 3:20 p. m.]

16. Department's telegram No. 10, February 5, 3 p. m. Foreign Minister agreeable including in exchange of notes the paragraphs quoted.

I respectfully await advice as to date on which I shall be authorized to sign. Please expedite.

LONG

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617.003/251 : Telegram

*The Secretary of State to the Minister in Nicaragua (Long)*

WASHINGTON, February 7, 1938—7 p. m.

11. Your 16, February 7, 1 p. m. Proclamation with dates left blank signed by President this morning. You are therefore authorized to proceed at once to the exchange of notes. The Department assumes that text of notes will be that supplied by Department in its No. 8 of February 1, 5 p. m. as corrected in No. 9 of January [*February*] 3, 5 p. m.<sup>8</sup> and amplified in No. 10 of February 5, 3 p. m.

<sup>8</sup> Not printed, but see footnote 7, p. 788.



If the notes are exchanged on February 8, the date to be inserted in the second paragraph is March 10. Press announcement containing text of notes to be exchanged between you and the Foreign Minister, will be issued upon receipt of information from you that notes have been exchanged.

Department will inform you of date upon which announcement will appear in newspapers here.

HULL

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617.003/252 : Telegram

*The Minister in Nicaragua (Long) to the Secretary of State*

MANAGUA, February 8, 1938—10 p. m.

[Received February 9—12: 33 a. m.]

17. Referring to Department's telegram No. 11, February 7, 7 p. m. The notes, dated February 8 and to be effective March 10, were exchanged today.

The Foreign Minister took the text suggested but in putting it into Spanish made slight idiomatic changes which he insisted were necessary for linguistic considerations and which do not alter the substance or purport of the text.

The following is a literal translation of the Spanish text of the Foreign Minister, made with close observance of the Spanish idiom:

"I have the honor to refer to the recent conversations had with regard to the desire of the Government of Nicaragua that the trade agreement between the Republic of Nicaragua and the United States of America signed at Managua on March 11, 1936, be modified in certain respects on account of the grave emergency financial condition which it is obliged to face at the present time.

"I now have the honor to confirm and make of record by means of the present note, the agreement which, as a result of the conversations referred to, has been reached between the Government of Nicaragua and the Government of the United States, that the provisions of Article I, those of the first paragraph of Article II, and those of Article III (insofar as relates to Note 1 to Schedule I appended to the agreement) and those of Article V of the above mentioned agreement to of March 11, 1936, shall cease to be in force and have effect from the 10th day of March of the current year, inclusive, forward.

"Furthermore, I have the honor to confirm that while the rate of exchange between the paper cordoba and the gold cordoba will be increased for quarterly returns of collection of customs duties, the Government of Nicaragua does not in reality contemplate an increase in the basic duties specified in Schedule I of the said trade agreement.

"I have the satisfaction of adding that the Government of Nicaragua will be pleased to reopen negotiations with the Government of the United States, as soon as it is possible, for the renewal or replacement of the above mentioned articles of the trade agreement of March 10, 1936".

Official report was sent precisely as indicated by the Department in its No. 8 of February 1, 5 p. m., as corrected in No. 9, February 3, 5 p. m.,<sup>9</sup> and amplified in No. 10, February 5, 3 p. m.

The Minister's note was received at 6 p. m., and mine, having already been written, was handed to him as it was, but I can change it in any particular if the Department deems it to be preferable.

Copies of the two texts<sup>10</sup> will be forwarded by air mail tomorrow, arriving in Washington Friday the 11th.

LONG

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617.003/252 : Telegram

*The Secretary of State to the Minister in Nicaragua (Long)*

WASHINGTON, February 9, 1938—6 p. m.

12. Your 17, February 8, 10 p. m. Text of Foreign Minister's note to you is satisfactory to the Department except that in phrase in parentheses in second paragraph the word "except" should precede the words "in so far". The Department assumes this to be an oversight and not an intentional omission, but the correction, if necessary, should be made in the text of the Foreign Minister's note.

The phrase in the third paragraph of the Foreign Minister's note "for quarterly returns of collection of customs duties" is not clear but the Department assumes this variation from text of your note involves no change in substance.

Press announcement will be released here February 10,<sup>11</sup> for publication in morning papers the next day.

Proclamation by the President will be dated February 8, effective on and after March 10.

HULL

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611.1731/334 : Telegram

*The Secretary of State to the Minister in Nicaragua (Long)*

WASHINGTON, February 16, 1938—7 p. m.

14. Your despatch No. 832, February 9.<sup>9</sup> Please confirm immediately by telegram Department's understanding that the statement in

<sup>9</sup> Telegram No. 9 not printed.

<sup>10</sup> For the text of the Agreement between the United States and Nicaragua terminating certain provisions of the reciprocal trade agreement of March 11, 1936, signed at Managua, February 8, 1938, see Executive Agreement Series No. 120, or 52 Stat. 1486.

<sup>11</sup> Department of State, *Press Releases*, February 12, 1938, pp. 249-250.

the third paragraph of your note No. 235 handed on February 8 to the Foreign Minister regarding no increase being contemplated by Nicaragua in "basic rates of duty now specified in Schedule I of the trade agreement", means the rates set forth in Schedule I rather than, wherever different, the rates of the Nicaraguan tariff in effect prior to the effective date of the agreement. For example, on hog lard (Nicaraguan tariff item 956) the Department understands that the rate in effect after March 10 will remain 10 centavos per net kilo for American lard and not return to 12 centavos, the rate applicable prior to the agreement.

HULL

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611.1731/347

*The Department of State to the Nicaraguan Legation*

MEMORANDUM

Reference is made to the inquiry of the Minister of Nicaragua concerning the statement appearing in the last paragraph of the Department's press release of February 10, 1938, regarding the partial termination of the trade agreement between Nicaragua and the United States, to the effect that "the tariff concessions granted by the United States to Nicaragua in the trade agreement will cease to be in force on and after March 10, 1938."

The above statement is correct. However, the eleven tariff concessions granted to Nicaragua in the trade agreement consisted, with one exception, of bindings on the free list. Therefore, though the bindings to Nicaragua have been terminated, products imported from that country under these tariff classifications will continue to enter the United States free of duty. It may also be noted that, with one exception, all the concessions consisting of bindings, granted to Nicaragua, were also included in agreements with other countries.

The other commodity, on which a tariff concession consisting of a reduction of 50 percent in the former rate of duty was granted to Nicaragua will, when imported from that country, continue to enter the United States at the reduced rate, as that reduction was also granted to a third country in another agreement.

In practice, therefore, termination of the tariff concessions granted to Nicaragua in the trade agreement will result in no change in the tariff treatment accorded the products contained in Schedule II of that agreement, when imported into this country from Nicaragua.

WASHINGTON, March 4, 1938.

611.1731/351

*The Minister in Nicaragua (Long) to the Secretary of State*

No. 901

MANAGUA, March 16, 1938.  
[Received March 22.]

SIR: I have the honor to refer to my telephone conversation with Mr. Smith of the Trade Agreements Section of March 15, 3 p. m.,<sup>13</sup> with respect to my desire to make clear to the Nicaraguan Foreign Office the trade status between the two countries as a result of the exchange of the Notes of February 8, 1938, modifying the Trade Agreement.

I explained that I was anxious to let the Foreign Office have either an *aide-mémoire* or a memorandum and to receive a similar document in return covering the points of a discussion regarding the matter. It was suggested that a draft of such a document be submitted for the Department's consideration, and a draft is enclosed herewith.<sup>14</sup>

I would sincerely appreciate a telegraphic reply at the Department's earliest convenience.

Respectfully yours,

BOAZ LONG

611.1731/352

*The Chargé in Nicaragua (Carrigan) to the Secretary of State*

No. 935

MANAGUA, April 5, 1938.  
[Received April 11.]

SIR: I have the honor to refer to the Legation's despatch No. 901 of March 16, 1938, and to the Department's telegram No. 26 of March 25, 6 p. m.<sup>15</sup> regarding the proposed delivery of an *aide-mémoire* to the Foreign Office regarding the Trade Agreement as affected by the exchange of Notes of February 8, 1938.

Minister Long, on March 29, 1938, called on the Acting Foreign Minister to discuss this matter with him and to present the *aide-mémoire* in accordance with the Department's amendments. I have the honor to enclose a copy of the *aide-mémoire* as delivered.

He made use of this opportunity to recall to the Acting Minister for Foreign Affairs the question of the package tax, of the beer tax, and of the municipal taxes. The Acting Foreign Minister said that he had told the appropriate Nicaraguan authorities regarding these taxes and their relation to the Trade Agreement, but that, presumably, they had not clearly understood the situation. He said that he would

<sup>13</sup> No memorandum of conversation has been found in Department files.<sup>14</sup> Not printed.<sup>15</sup> Not printed; it contained changes in text of draft *aide-mémoire* enclosed with Legation's despatch No. 901, March 16.

again take up the matter and that he was glad to have the *aide-mémoire* as it would be of use in clarifying the situation.

Respectfully yours,

JOHN WILLARD CARRIGAN

[Enclosure]

*The American Legation to the Nicaraguan Ministry for Foreign Affairs*

AIDE-MÉMOIRE

The American Minister called on the Acting Minister for Foreign Affairs with reference to the status of the Trade Agreement as affected by the exchange of Notes of February 8, 1938.

The American Minister mentioned the termination of Article 1 of the Agreement and stated his understanding that the Nicaraguan Government does not contemplate any increase in the basic rates of duty set forth in Schedule I, nor with reference to the American products therein mentioned, any increase in any of the charges relating to importation into Nicaragua. For instance, under the Nicaraguan tariff in effect just before the signature of the Trade Agreement hog lard was dutiable at 12 centavos; these 12 centavos were reduced to 10 centavos under the Agreement, and, in accordance with the Note of February 8, Nicaragua will continue to charge 10 centavos. To clear the shipment, however, these 10 centavos will require the payment of a number of "circulating" centavos of a cordoba at a rate to be determined by Nicaragua: at present, 20 centavos (circulating currency) would be required, the rate now being 200%. Another instance—the Consular Invoice Fee will remain at 3% on articles listed in Schedule I when imported from the United States.

With respect to the first paragraph of Article 2 of the Trade Agreement, the American Minister expressed his understanding that its termination had resulted in no change in the customs treatment accorded the Nicaraguan products enumerated in Schedule 2, upon their importation into the United States.

Article IV of the Trade Agreement has not been modified by the exchange of Notes. It provides—and continues to provide—that articles of either country, when introduced into the other country, shall be exempt from internal taxes, charges, or exactions other or higher than those applied to like products of the other country or of any third country. For instance, American beer shall be exempt from any internal tax other or higher than that applicable to Nicaraguan beer—and vice versa. Also, for example, American products shall pay no higher municipal taxes (such as those of the National District) than are paid by like articles of Nicaraguan origin—and, again, vice versa.

MANAGUA, D. N., March 29, 1938.

ATTITUDE OF THE UNITED STATES REGARDING PROPOSED AMENDMENT TO NICARAGUAN CONSTITUTION AUTHORIZING TREATY FOR AN INTER-OCEANIC CANAL AND PROPOSAL FOR AMERICAN AID IN CANALIZING THE SAN JUAN RIVER

817.812/736 : Telegram

*The Minister in Nicaragua (Nicholson) to the Secretary of State*

MANAGUA, November 3, 1938—1 p. m.

[Received 6 : 52 p. m.]

107. The President today told me that he intends to include in the new constitution a provision making the Bryan-Chamorro Treaty<sup>16</sup> a matter of organic law with the leases extended to perpetuity. He will provide me shortly with the draft provision, which I will telegraph when received. He is deeply interested in the immediate canalization of the San Juan River for shallow to medium draft ships and wishes to visit the United States within a few months in order to push the matter. It appears to be in his mind that by obtaining our advance consideration of the provision he might facilitate discussions with our Government.

NICHOLSON

817.812/736 : Telegram

*The Secretary of State to the Minister in Nicaragua (Nicholson)*

WASHINGTON, November 7, 1938—8 p. m.

66. Your strictly confidential no. 107, November 3, 1 p. m. Please call on President Somoza as soon as an appropriate occasion is presented and discuss with him informally his proposal to include the provisions of the Bryan-Chamorro treaty in the new constitution.

Please inform him that this Government is sincerely appreciative of his courtesy in apprising you of his plans and likewise for this new manifestation of his desire to strengthen the ties of friendship with this country. Please tell the President that while the question of deciding what provisions shall be included in the new constitution is obviously the exclusive concern of the Nicaraguan Government this Government feels warranted in view of his frankness in acquainting you beforehand with his intentions in requesting you to place before him certain observations for his informal consideration.

You should state that it is the view of this Government that the treaty of August 5, 1914 remains in full force and effect and that at such time as the Congress of the United States may authorize construction of the Nicaraguan canal it feels that this treaty will serve as a satisfactory basis for whatever negotiations may be found necessary

<sup>16</sup> Convention between the United States and Nicaragua, signed August 5, 1914, *Foreign Relations*, 1916, p. 849.

prior to actual construction of the canal and it does not consider that the rights of either party under the treaty would be strengthened by action of the nature which the President has in mind.

You may also point out to the President that he may wish before taking further action to give careful consideration to the historical position of Costa Rica and El Salvador toward the Bryan-Chamorro treaty.<sup>17</sup> While we do not feel that inclusion of the provisions of the treaty in the new constitution would in any way affect the juridical position of this Government it would be a matter for sincere regret if such action should in any way disturb the friendly relations now existing between Nicaragua and the countries mentioned.

With regard to the President's interest in the canalization of the San Juan River, please inform him that this appears to be a project of such magnitude that careful study of the technical features and of other considerations involved would be necessary before we would be in a position to make any comment thereon. You may of course inform the President that this Government would be happy to be of assistance to him in obtaining competent engineering advice and assistance in connection with the necessary preliminary studies.

The Department does not consider it would be necessary for you to leave with the President any written record of your conversation.

Please inform the Department promptly by telegraph of the results of your conversation.

HULL

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817.812/739 : Telegram

*The Minister in Nicaragua (Nicholson) to the Secretary of State*

MANAGUA, November 10, 1938—6 p. m.

[Received 10:30 p. m.]

111. At the instance of the President the Foreign Minister<sup>18</sup> called on me and handed me a copy of a memorandum<sup>19</sup> setting forth Nicaraguan views regarding our assistance in canalizing the San Juan River which he proposes to send to the Nicaraguan Minister in Washington<sup>20</sup> for submission to the Department. He stated that he wished me to "examine" it before it goes forward.

The memorandum suggests measures which differ in important respects from the proposition propounded to me by the President and reported in my telegram 107.

<sup>17</sup> See *Foreign Relations*, 1913, pp. 1021-1034; *ibid.*, 1914, pp. 170, 953-969, 1075; *ibid.*, 1915, pp. 1104-1119; *ibid.*, 1916, pp. 217, 811-898; *ibid.*, 1917, pp. 834, 1100-1111.

<sup>18</sup> Manuel Cordero Reyes.

<sup>19</sup> Copy transmitted to the Department by the Minister in Nicaragua in his despatch No. 205, November 11, not printed.

<sup>20</sup> León De Bayle.

It reviews at considerable length the history of canal discussions and negotiations and refutes the Costa Rican, Honduran and Salvadoran protests, against the Bryan-Chamorro Treaty. It covers discussions of the theory which has been cited in criticism of the treaty that it is a one-sided arrangement in which Nicaragua received an inadequate return and that its legality has been questioned under article 2 of the Nicaraguan constitution<sup>21</sup> and in view of the nature of the government as [*that?*] negotiated it. In this latter connection it quotes Root's letter to Senator Fuller printed in appendix Sultana canal report.<sup>22</sup>

This is done however without rancor and it sets forth that Nicaragua regards the treaty with all its defects as in accord with the present position of the two countries and the defense policy of the United States which is the defense of all the American Republics.

Still, the memorandum holds, the Nicaraguan position deserves careful and just consideration. The treaty was signed by Nicaragua in spite of its defects and the insignificant return obtained in order to smooth the way for construction of the canal and not with the purpose of condemning to sterility the country's greatest natural resource.

The Nicaraguan Government does not now propose to request the opening of the question of validity of the treaty but in view of the circumstances set forth it would be deeply appreciative if the Government of the United States would consent to open conversations with regard to a modification not of the treaty itself but of the negotiations which culminated in the treaty along the following lines; (firstly) a treaty supplementary to the Bryan-Chamorro Treaty whereby (1) the United States would engage (a) to supply the resources and technicians necessary for canalizing San Juan River; (b) to supply the resources required to cover Costa Rican claims on account of any material damages involved; (c) to deduct the amount thus advanced from what is eventually adjudged to be due to Nicaragua when the interoceanic canal is built; (2) Nicaragua would engage; (a) to satisfy any kinds of claims of Costa Rica; (b) in case of war or danger of war to allow to the United States free military passage across Nicaragua by the San Juan, Lake Nicaragua, Rivas isthmus route or any other route; (c) in the above contingency to grant free use by American air and naval forces of Nicaraguan air fields, terri-

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<sup>21</sup> Article 2 stated that sovereignty was inalienable and imprescriptible and resided in the people from whom were derived the powers and functions established by the constitution. The Government, therefore, had no authority to make pacts or treaties affecting the sovereignty of the nation. Nicaragua, *Constitución Política de la República de Nicaragua* . . . (Managua, 1930), p. 5.

<sup>22</sup> *United States Army, Interoceanic Canal Board, Report with Appendices and Maps of the Chief of Engineers, United States Army, and the Interoceanic Canal Board*, House Document No. 139, 72d Cong., 1st sess. (Washington, Government Printing Office, 1932), pp. 253-254.



torial waters and lakes. (Secondly) the Nicaraguan Government would consent to ask the Constituent Assembly in its quality as a sovereign body to ratify and confirm (*convalidar*) the Bryan-Chamorro Treaty.

The Minister mentioned the possibility that a provision of a general character might be included in the new constitution modifying article 2 of the former constitution to empower the Government to alienate territory for the purposes of canal construction, without mentioning the Bryan-Chamorro Treaty.

I have not yet had opportunity to communicate with the President as indicated in the Department's telegram number 66.

I beg to offer my opinion that while Nicaragua is not even remotely suggesting abrogation of the Treaty, it has brought up the matter at this time with a view to hastening action for economic reasons. A renewal of conversations now could hardly fail to arouse the neighbor states.

Obviously, indicated assurance that Nicaragua would meet any protests that might be made or claims for indemnities interposed by Costa Rica is not convincing.

I respectfully suggest that in view of all the circumstances it would be advisable to avoid having the subject introduced in the Constituent Assembly unless it were merely to empower the Government to alienate territory for canal construction as the Minister suggested. However, even this might provoke discussion as to the validity of the existing treaty, which was made under a constitution lacking such provision. I should be fearful of the consequences of a renewal not only of discussions by the press and public of the canal project but of other questions not germane to it both here and in the neighbor states.

I await further instructions.

Spanish text by direct air mail to reach you Monday.

NICHOLSON

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817.812/739 : Telegram

*The Secretary of State to the Minister in Nicaragua (Nicholson)*

WASHINGTON, November 16, 1938—7 p. m.

68. Your telegram no. 111, November 10, 6 p. m. It is felt that our telegram to you, no. 66 of November 7, 8 p. m., is an adequate exposition of the attitude of this Government toward the proposals advanced by the Nicaraguan Government and that you should, therefore, endeavor as soon as possible to see President Somoza in order to make our views known to him.

HULL

817.812/744

*The Minister in Nicaragua (Nicholson) to the Secretary of State*

No. 220

NICARAGUA, November 19, 1938.

[Received November 25.]

SIR: I have the honor to report that upon receipt of the Department's telegraphic instruction No. 68 dated November 16, 7 p. m., I requested an audience with President Somoza and yesterday conferred with him, and with the Foreign Minister at the same time, regarding the proposal of a treaty for the canalization of the San Juan River covered by my despatch No. 205<sup>24</sup> and the whole matter of reference to the Bryan-Chamorro Treaty in the new Nicaraguan Constitution or in the legislative enactments of the Constituent Assembly.

A brief but inclusive report of the conference will be transmitted by telegram today, (No. 113, November 19, 11 a. m.<sup>24</sup>) supplementing which the following particulars are given:

The interview was carried on in an informal manner and was marked by cordial good feeling.

I first acquainted the President with the American Government's appreciation of the frankness with which he had been pleased to treat it in the matter in question, explaining that my Government wished to respond in the same spirit.

He replied that I knew that his personal inclination and official policy was to act in accord with our Government, stating that he felt that the interests of Nicaragua are closely bound up with and to a large extent dependent upon our interest and friendly assistance.

I then informed him of the Department's viewpoint as set forth in its telegram No. 66 of November 7, 8 p. m., that while the Constitution of Nicaragua is essentially a concern of the Nicaraguan people, the United States is satisfied with the juridical status of the Bryan-Chamorro Treaty and does not consider that anything would be gained by reaffirming its validity either in a provision in the new Constitution or by legislative act of the Constituent Assembly, the latter process being actually the one which the Nicaraguan Government had in mind. I also invited his attention to the possibility of contention with the neighboring states if the Treaty were brought up for consideration in any manner.

After a certain amount of discussion the President acquiesced in the viewpoint of the Department, though with some reluctance. Throughout this discussion he frequently reiterated his desire for friendly cooperation with the American Government and his wish to accept its viewpoint as far as possible.

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<sup>24</sup> Not printed.

The matter of a proposed general canal treaty clause in the new Constitution then came up, and the President showed me the pertinent Article, which will be transmitted to the Department, in translation, in my telegram of today. The Spanish text of this provision reads as follows:<sup>25</sup>

[Translation]

“Article Four.—The territory and sovereignty are indivisible and inalienable. Nevertheless, treaties may be celebrated which look toward union with one or several of the republics of Central America or which have as object the construction, sanitation, operation and defense of an interoceanic canal across the national territory.”

Here the personality and viewpoint of the Foreign Minister came into play. As the Department is aware, Dr. Cordero Reyes is of strongly legalistic mind and is prone stubbornly to defend a legal point. In many respects he has no great influence with the President, serving as an instrument to carry out the President's ideas rather than as a maker of policies. In cases where a legal point or process is to be developed, however, the President, who recognizes his shortcomings in this field, is strongly inclined to defer to his Minister's opinion. Dr. Cordero Reyes, accordingly, took up the matter of explaining and justifying the proposed constitutional provision.

He stated that there was no desire on the part of Nicaragua to question the validity of the Bryan-Chamorro Treaty, and that he had included in his memorandum transmitted in copy with my despatch No. 205 a complete review of the arguments against the legality of the Treaty not with the idea of assailing its validity but in order to give the Government of the United States, in carrying out the preliminary informative purpose of his memorandum, precise particulars of the grounds on which it had been criticized.

He then stated that the projected Article in the new Constitution is designed to be an article of general scope, necessary to enable the Congress to provide such treaty and legislation as will be required before actual canal construction can begin. He had in mind the contingency of a treaty ceding territory and sovereign rights which, he said, Article 2 of the existing Constitution makes unconstitutional. Since the nation is to have a new Constitution this defect may now be rectified.

He emphasized his point that the inclusion of the proposed article in the new Constitution is a matter of Nicaraguan interest, without regard to the Bryan-Chamorro Treaty, which is a matter accepted and past. General provision must be made, he held, that the hands of Congress may not be tied when the celebration of a treaty definitely providing for canal construction comes under consideration. He insisted upon the opinion that the provision is necessary from the

<sup>25</sup> Spanish text omitted.

Nicaraguan viewpoint, to enable the country to take advantage of its greatest natural resource when the occasion arises.

The President has accepted the view expressed by Dr. Cordero Reyes, and the article is drafted as quoted, for submission to the Constituent Assembly.

The President asked, however, that I submit it to the Department, the inference being clear that he desires an expression of the Department's opinion. While I might have cited to him the general principle set forth in the Department's telegram No. 66, that the Constitution is a matter of purely Nicaraguan competence, in deference to the President's request and in view of the importance of the issue involved, I have thought that a special reference to the Department is warranted. I have therefore to request the Department's comments, even though they be merely a restatement of its basic position. It would also be appreciated if communication of the Department's comments might be by telegram as early as convenience permits, since the Constituent Assembly which is to consider the provision will convene on December 15th.

My personal reaction to the matter is that an opinion adverse to the provision would meet with considerable resistance. While Dr. Cordero Reyes showed no enthusiasm for the President's idea of revalidating the Bryan-Chamorro Treaty, it was evident that the President was disappointed at our failure to agree with it. It was clear in our interview that he is now strongly favorable to the adoption of the more general provision.

The project of having the Constituent Assembly pass, in its capacity as a legislative body, a measure revalidating the Bryan-Chamorro Treaty is, of course, dropped. I was so specifically informed by the President.

Nor will the memorandum transmitted in copy with my despatch No. 205<sup>26</sup> be presented to the Department by the Nicaraguan Minister in Washington. The Foreign Minister stated that the Department has now the copy which I forwarded and has considered it, and that the matter is accordingly closed except that possibly at some future time the Nicaraguan Government may wish to make reference to the memorandum since it was carefully drawn up and sets forth the Nicaraguan position with particular precision.

At the close of our conference, the President stated, after considering the Department's offer of assistance in obtaining technical service in connection with any canalization survey work undertaken by Nicaragua, that he appreciated this offer and would study the matter.

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<sup>26</sup> Not printed.

I beg to reaffirm my impression that the canal project has been brought to the fore at this time and in this manner in the hope of hastening action by our Government looking to early construction. The canal subject, and reports that President Somoza will soon visit Washington in this regard, receive much attention in the local press.

Respectfully yours,

For the Minister:  
REGINALD S. CASTELMAN  
*Secretary of Legation*

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817.812/743 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua  
(Nicholson)*

WASHINGTON, November 30, 1938—6 p. m.

71. Your despatch 220, November 19, second full paragraph, page 5. You may tell the President that the Department's attitude toward the possible inclusion in a new Constitution of an article specifically authorizing the celebration of treaties for the construction, sanitation, operation and defense of an interoceanic canal across Nicaragua is that the desirability of including such a provision is a matter entirely for the decision of the Nicaraguan people.

WELLES

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817.812/748

*The Nicaraguan Minister (De Bayle) to the Secretary of State*

[Translation]

No. 954

WASHINGTON, November 30, 1938.

MR. SECRETARY OF STATE: Under special instructions from my Government I have the honor to inform Your Excellency as follows:

The Ministry of Foreign Relations of Nicaragua presented to the American Legation in Managua, informally, a memorandum dated November 8,<sup>27</sup> which contains a study of the diverse aspects of the Bryan-Chamorro Treaty of August 5, 1914, between the Governments of the United States and Nicaragua, which had as a principal objective the cession in perpetuity to the former of the proprietary rights necessary for the construction, operation, and maintenance of an interoceanic canal by way of San Juan River and Lake Nicaragua, or by any other route over Nicaraguan territory.

The memorandum referred to records the proposal of the Government of Nicaragua, based on reasons as set forth therein, to "submit very respectfully to the consideration of the American Government

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<sup>27</sup> Not printed.

the revision, not of the Bryan-Chamorro Treaty, but of the negotiations concerning the Canal which culminated in said Treaty, in order to adjust it, to the reciprocal convenience of both governments, to a higher plane of justice”.

In presenting the memorandum referred to, the Minister of Foreign Relations told Minister Nicholson that the President of the Republic proposed, if the Government of the United States considered it convenient, to go to Washington to discuss personally with President Roosevelt the requests of Nicaragua set forth in said memorandum.

Later the Minister of the United States in Managua visited the President of the Republic, and in the presence of the Minister of Foreign Relations, told him that the Department of State, after having been informed of the contents of the memorandum referred to, had instructed him to say: that the Government of the United States did not consider the ratification or revalidation of the Treaty by the Constituent Assembly to be desirable, because it did not wish new criticisms and protests with reference to that Treaty to be provoked; that his Government was considering very closely and favorably the demands of Nicaragua with reference to the canalization of the San Juan River; that it considered a new study of said work to be necessary and that it was disposed to approve a request in that sense from the Government of Nicaragua, separate from the memorandum referred to, for which reason it considered it unnecessary to present the memorandum in a formal manner. Minister Nicholson added, with reference to the President's trip, that his Government's opinion was favorable, but that it believed that the time to make it would be after the Pan American Conference in Lima.

The President expressed his thanks for the good will manifested by the United States in considering the requests referred to, and promised that the Nicaraguan Legation in Washington would send the State Department the communication suggested. He also reiterated at the same time his friendly attitude toward the United States, his great desire that Nicaragua's future should for higher reasons of reciprocal advantage, security and defense become more closely bound up with the United States, within a relation of equality which would permit him to protect the larger interests of Nicaragua and to prevent grave and irreparable damage to that country.

On the basis of the foregoing, Your Excellency will permit me to indicate briefly the reasons for the request I have to make.

Under Article 1 of the Bryan-Chamorro Treaty of August 5, 1914, Nicaragua ceded to the United States sovereign rights pertaining to it as a nation, in order to provide for the construction of an inter-oceanic canal across its territory, rights which now and forever belong exclusively to the Government of the United States of America, which alone can decide with reference to the construction of the canal.

It should be noted that inasmuch as the Treaty did not indicate any period within which Your Excellency's Government should decide to construct the interoceanic canal, it is completely free to decide to do it at any time, or to postpone it indefinitely, or forever, all of which constitutes an extremely disadvantageous situation for Nicaragua, since the latter would be unable to take advantage of the magnificent facilities, which the geographical configuration of its territories offers for the construction of such a work of universal importance as the interoceanic canal.

My Government desires very respectfully to call the attention of the Government of the United States to the circumstance that, as is public and notorious and as is set forth in the official documents of the Government of Nicaragua resulting from the negotiations for the approval of the Treaty, Nicaragua gave the concessions contained in the Treaty with the hope—almost with the assurance—that the interoceanic canal would be constructed in the more or less near future, so that the sacrifices made would bring great advantages for Nicaragua as well as for the United States and also for the traffic of the world.

Inasmuch as the construction of the interoceanic canal referred to appears to be indefinitely postponed, Nicaragua is faced with danger of losing forever and completely the privileges of its geographic situation, and of being deprived of the possibility of taking advantage of the means afforded by nature of hastening its development and progress. Nicaragua believes firmly that in justice to it the illustrious Government of the United States should consider this situation closely and equitably in order that, inspired by noble sentiments of justice and by an active devotion to neighborliness and solidarity, it may cooperate in helping Nicaragua to avoid the injuries pointed out which would definitely halt its potential progress.

If, as the Government of Nicaragua hopes, the foregoing considerations appear to the Government of the United States to be well founded and just, I beg Your Excellency to please give your friendly assistance to my Government, in order that American engineers, under instructions from the Government of the United States, should proceed to make a study of the possibility of canalizing the San Juan River, from Lake Nicaragua to its mouth in the Atlantic Ocean, in order to prepare it for navigation of vessels of ordinary draft, and also to make an approximate estimate of the total cost of said work.

My Government desires, in case the request contained in the present note is favorably received, that the designation of the engineers and the studies referred to be carried out as quickly as possible.

Thanking you in advance on behalf of my Government for the deferential attention which Your Excellency may be kind enough to give this communication, I am pleased [etc.]

LEÓN DE BAYLE

817.812/748

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[WASHINGTON,] December 1, 1938.

The Minister of Nicaragua called to see me this afternoon and handed me the attached note,<sup>28</sup> which he told me was largely a reiteration of the representations already made in Managua to Minister Nicholson. He said that, not speaking as a minister but as a friend, he wanted me to know his Government had felt when the Bryan-Chamorro treaty was signed that there was a likelihood that the Nicaraguan canal would be constructed in the not distant future. Now, he said, it looked as if the construction of the canal was to be postponed for an indefinite period with the result that Nicaragua would not obtain the benefits to her own national economy which would have arisen with the canal in operation. He said that consequently his Government felt that in view of their bad economic and international situation the Government of the United States should do something to help them out, particularly through assuming the expense involved in the canalization of the San Juan River.

I said to the Minister in the most friendly way that I could not agree with his premises. I said that the Bryan-Chamorro treaty had involved the payment by the United States to Nicaragua of \$3,000,000 which had been regarded by Nicaragua as satisfactory and complete compensation for the rights accorded the United States in that instrument. I stated that I could not share his conclusion that the construction of the canal would never be undertaken, and that it seemed to me that that was a question which could only be settled as the need for the canal might be demonstrated. I said it seemed to me wise and expedient from the point of view of both Governments not to give any further thought to the considerations which he had advanced but to concentrate on what would in any event have to be the first step, namely, a study of a technical character undertaken by competent experts as to the possibilities for canalization of the San Juan River and the cost of the construction of such project, and that to this request of his Government I would give the most sympathetic consideration. I told the Minister I would let him know as soon as possible whether we could agree to furnish such expert services and if so, the individuals we might recommend for that purpose.

S[UMNER] W[ELLES]

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<sup>28</sup> *Supra.*



817.812/748

*The Acting Secretary of State to the Nicaraguan Minister (De Bayle)*

WASHINGTON, December 8, 1938.

SIR: I have the honor to acknowledge the receipt of your note no. 954 of November 30, 1938 in which you request my Government's assistance in the carrying out of studies by American engineers concerning the possibility of canalizing the San Juan River. Prompt consideration will be given to your Government's request, and I shall be pleased to communicate with you further in the matter at a later date.

Accept [etc.]

SUMNER WELLES

817.812/748

*The Acting Secretary of State to President Roosevelt*<sup>29</sup>

WASHINGTON, December 12, 1938.

MY DEAR MR. PRESIDENT: The President of Nicaragua, General Anastasio Somoza, consulted this Government early in November regarding the possible inclusion in the proposed new constitution of Nicaragua of a provision making the Bryan-Chamorro Treaty a matter of organic law with the leases extended to perpetuity. He also expressed interest in the canalization of the San Juan River to permit navigation by medium draft ships and expressed a wish to visit the United States within a few months to discuss this project. The Nicaraguan Government later consulted with this Government with reference to the inclusion in the proposed new constitution of a provision which would remove a conflict which is alleged to exist between the terms of the present constitution and the Byran-Chamorro Treaty.

With reference to the proposed provisions of the new constitution, this Government expressed the opinion that they were an exclusive concern of the Nicaraguan Government, while pointing out possible objections from Nicaragua's point of view to raising the subject of the Bryan-Chamorro Treaty in this connection.

The Nicaraguan Minister, in a note dated November 30, has formally requested our assistance in conducting a study of the feasibility of canalizing the San Juan River. I am having inquiries made to determine whether we can lend the Nicaraguan Government such assistance.

In his note, the Nicaraguan Minister referred again to General Somoza's desire to visit Washington in order to discuss with you personally the desire of Nicaragua. The Nicaraguan Government

<sup>29</sup> The original of this letter was returned by the President with an endorsement at the top reading as follows: "S. W. Visit OK FDR". (817.001 Somoza, A./31½)

appears to be under the impression that this Government would favor such a visit.

Although I think the specific requests of Nicaragua have been or will be adequately answered, I perceive no objection to General Somoza's visiting Washington sometime after the first of the year if it is agreeable to you. I should be grateful if you would let me know your wishes in the matter.

Faithfully yours,

SUMNER WELLES

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817.812/748

*The Acting Secretary of State to the Secretary of War (Woodring)*

WASHINGTON, December 15, 1938.

MY DEAR MR. SECRETARY: The Government of Nicaragua is anxious to conduct a study of the possibility and probable cost of canalizing the San Juan River from Lake Nicaragua to the mouth of the river in the Atlantic Ocean, to permit navigation by vessels of ordinary draft, and has asked the assistance of this Government in that connection. The President of Nicaragua has been informed that this Government would be happy to be of assistance to him in obtaining competent engineering advice and assistance in this connection.

It is understood that the Nicaraguan Government is desirous that this study should be performed without cost to it.

I should appreciate your letting me know whether under the circumstances the War Department could lend to Nicaragua the services of the number of engineers considered necessary to carry out such a study.

Sincerely yours,

SUMNER WELLES

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817.812/753

*The Secretary of War (Woodring) to the Secretary of State*

WASHINGTON, December 29, 1938.

DEAR MR. SECRETARY: Further reference is made to your letter of December 15, 1938, in regard to the request of the Government of Nicaragua for assistance in conducting a study of the possibility and probable cost of canalizing the San Juan River, in which you ask if the War Department could lend to Nicaragua the services of the number of engineers considered necessary to carry out such a study without cost to that Government.

It is not believed to be feasible for the War Department to furnish to the Government of Nicaragua without cost the services of engineers. However, the War Department has a great deal of data on

the canalization of the San Juan River and these data might be sufficient to provide the Republic of Nicaragua with the information it desires. At the present time Captain R. B. Ezekiel, Corps of Engineers, U. S. Army, is stationed at Managua, Nicaragua, as Officer in Charge of the Hydrographic Office of the Nicaragua Canal Survey, and it is suggested that representatives of the Nicaraguan Government confer with Captain Ezekiel who will be pleased to supply all the data in his possession. The office of the Chief of Engineers will also be pleased to make available the information which it has on this subject.

Sincerely yours,

HARRY S. WOODRING

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**AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA PROVIDING FOR THE ADJUSTMENT OF CERTAIN ACCOUNTS OF INDEBTEDNESS AND CLAIM FOR REFUND OF INCOME TAXES, SIGNED APRIL 14, 1938**

[For the text of the agreement, signed at Washington, see Department of State Treaty Series No. 937, or 53 Stat. 1573.]

## PANAMA

### REPRESENTATIONS TO PANAMA REGARDING LEGISLATION REQUIRING PURCHASE OF GOVERNMENT BONDS BY AMERICAN BANKING AND OTHER INSTITUTIONS

819.51/950 : Telegram

*The Chargé in Panama (Flexer) to the Secretary of State*

PANAMA, October 10, 1938—6 p. m.  
[Received 8:45 p. m.]

104. Administration bill introduced without warning in the National Assembly provides for issue of 6,000,000 balboas "guarantee bonds" bearing interest at 3% maturing November 1, 1958 the proceeds to be devoted to the purchase of bonds of 1923 and 1928 external loans<sup>1</sup> at prices not above par.

Sales would be only to designated institutions under a plan which in practical effect would amount to a forced loan to the Panaman Government by foreign banks, public utility, and oil companies for reduction of the interest rate upon the defaulted external loans. After providing that private banking or credit institutions may not receive deposits exceeding 50% of [*by more than 50%*]<sup>2</sup> their investments in the Republic the bill stipulates that 20% of the total deposits of residents of the Republic shall be invested in guarantee bonds. Projects, utility, and oil companies would be required to invest not less than 10% of their capital or 50% of their sales during the past twelve months in these bonds.

The guarantee bonds would be exchangeable after six months for 1923 and 1928 external loan bonds acquired by the government with the proceeds of such compulsory investments but the external bonds would bear interest only at 3% from the date of exchange.

Interest on the guarantee bonds would be secured by the interest on bonds of external loans acquired by the government under the provisions of the bill and by 3% interest payment by the Banco Nacional on the government's deposit of any proceeds of sales of guarantee bonds not convertible into bonds of external loans.

FLEXER

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<sup>1</sup> Foreign Bondholders Protective Council, Inc., *Annual Report, 1938* (New York, 1939), pp. 810-813.

<sup>2</sup> Corrected on basis of despatch No. 529, October 15, not printed.

819.51/950 : Telegram

*The Secretary of State to the Chargé in Panama (Flewer)*

WASHINGTON, October 20, 1938—7 p. m.

57. Your 104, October 10, 6 p. m. In the course of an interview with the Panamanian Minister<sup>3</sup> on October 18, the Under Secretary<sup>4</sup> discussed with him the bill introduced into the Panamanian National Assembly for the issuance of "guarantee bonds" obviously aimed at repatriating outstanding bonds of the Panamanian external debt at depreciated prices. Mr. Welles expressed to the Minister personally and informally the concern of this Government at the generally extreme nature of the legislation recently introduced into the Assembly, including the income tax bill and the proposed new constitution.

With particular regard to the "guarantee bond" bill, Mr. Welles pointed out that such a measure if enacted and enforced might very well result in some agitation in this country leading to a renewal of pressure in the United States Senate to defeat the General Treaty of March 2, 1936.<sup>5</sup>

While this Government is not prepared at this juncture to make any formal representations to the Panamanian Government, you are authorized to discuss the situation informally with the appropriate Panamanian authorities at the next suitable opportunity and to point out that the legislation now pending in the Assembly may well affect adversely the future economic development of the Republic. Please continue to keep the Department closely informed of developments.

HULL

819.51/952 : Telegram

*The Chargé in Panama (Flewer) to the Secretary of State*

PANAMA, October 21, 1938—10 a. m.

[Received 2 p. m.]

108. Referring to the Legation's despatch no. 529, October 15,<sup>6</sup> National Assembly yesterday passed bill referred to in second reading with following amendments and additions recommended by committee :

Article 9. Investment of public utility enterprise in guarantee bonds to be 2% of invested capital and 2% of annual sales.

New article immediately following defines enterprises as "commercial, industrial or manufacturing entities extending services to public

<sup>3</sup> Augusto S. Boyd.

<sup>4</sup> Sumner Welles.

<sup>5</sup> Department of State Treaty Series No. 945, or 53 Stat. 1807; see also *Foreign Relations*, 1936, vol. v, p. 855.

<sup>6</sup> Not printed.

the suspension of which would be prejudicial to national economy or to the social community where they operate.”

Article 11. Rephrased to impose stamp tax on checks and drafts drawn by residents in Panamanian jurisdiction upon institutions established in the country outside of Panamanian jurisdiction. Obviously this provision is specifically aimed at the Chase National Bank at Cristobal and would constitute a tax in violation of treaty upon Canal Zone employees residing in Panamanian jurisdiction at new Cristobal. Tax would be 50 centavos plus 1% of value of check when over 5 balboas.

A new article, after imposing fines for first offenses of institutions violating law, provides penalty of retirement from business for recurrence.

A new article provides that entities subject to the law which may be forced to suspend activities shall give a year's prior notification to the Government, failing which the right of redemption of their guarantee bonds shall be lost.

A new article provides that for the purposes of the law the capital of entities operating also outside the Republic shall be considered to be the part of the capital engaged in operations in the territory of the Republic (the omission of the expression “borders of the Republic” may be significant in respect to investments in the Canal Zone). It further provides that the sales referred to in article 9 shall be considered thoroughly reliable made in territory under the jurisdiction of Panamanian authority.

Upon passage the bill was referred to the drafting committee with allowance of three days for report.

Yesterday the three foreign banks affected—the Chase National Bank, the National City Bank and the Royal Bank of Canada—sent identical telegrams to their principals recommending that official representations be deferred until the Assembly had completed action, inasmuch as their objections are to the provisions of the bill as a whole and it was considered desirable to avoid “horse trading” with the Assembly. I am now informed, however, that representatives of the two American banks will call upon the Department to request formal and immediate diplomatic representations.

It is said that enforcement of the law will compel withdrawal from general banking business in Panama. Further, it is questioned whether under section 16 of the Glass-Steagall Banking Act of 1933<sup>7</sup> and the Comptroller's regulations thereunder purchase of guarantee bonds in such amount would be lawful; it is also questioned whether the exchange of guarantee bonds for external loan bonds already in default would be permitted.

FLEXER

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<sup>7</sup> Approved June 16, 1933; 48 Stat. 162, 184.

819.51/950 : Telegram

*The Secretary of State to the Chargé in Panama (Flexer)*

WASHINGTON, October 21, 1938—7 p. m.

58. Your 108, October 21, 10 a. m. and the Department's telegram No. 57 October 20, 7 p. m.

Messrs. Lancaster<sup>8</sup> and Reynolds<sup>9</sup> representing respectively the National City and the Chase Bank have just called on the Under Secretary to express their extreme concern over the provisions of the "guarantee bond bill".

They were informed in confidence of the informal representations he had already made to the Panamanian Minister on October 18, the substance of which the Minister had agreed to despatch immediately by airmail to President Arosemena. Mr. Welles also informed them of the substance of the instructions sent you last night.

After outlining their objections to the measure, Messrs. Lancaster and Reynolds stated that their banks had come to the reluctant decision that the present situation left them no alternative but to instruct the managers of the National City and Chase Banks in Panama to present a formal statement to the Panamanian Minister of Finance tomorrow informing him that if the law were enacted as passed in second reading the parent companies would seriously have to consider whether the banks could continue to operate in the Republic. They stated that the Royal Bank of Canada concurs fully in this decision and will take similar action.

You are requested to discuss the matter immediately with the Panamanian Minister for Foreign Affairs and to express to him the hope of this Government that before further action is taken on the bill, an opportunity will be afforded the National City Bank and the Chase National Bank to discuss the situation with the appropriate Panamanian authorities for the purpose of seeking some fair and reasonable solution. In this connection please telegraph whether in your estimation it would be desirable for the American banks to send special representatives to Panama for that purpose.

HULL

819.51/953 : Telegram

*The Chargé in Panama (Flexer) to the Secretary of State*

PANAMA, October 22, 1938—3 p. m.

[Received 11:40 p. m.]

109. Referring to Department's telegram No. 57, October 20, 7 p. m., and No. 58, October 21, 7 p. m., concerning guarantee bond bill. The

<sup>8</sup> William W. Lancaster, of the New York law firm of Shearman and Sterling.

<sup>9</sup> Irving Reynolds, of the New York law firm of Mudge, Stern, Williams & Tucker.

views expressed in the former telegram were promptly conveyed to the Comptroller General of the Republic in whose office the measure originated. They were reiterated to the Minister for Foreign Affairs<sup>10</sup> this morning in discussing the matters instructed by the latter telegram. The Minister for Foreign Affairs stated that the Panaman Minister at Washington had not communicated concerning the October 18th conversation<sup>11</sup> with the Under Secretary of State. He said that he had not familiarized himself either with the income tax or the guarantee bond bill and had not been present at the National Assembly on Thursday when, as I informed him, the Secretary of Finance and Treasury<sup>12</sup> had altered the order of the day without notice and had obtained passage of the latter bill in second reading. He stated that he would at once seek an interview with the President at which he would present the Department's views and its hope that opportunity would be given to the American banks for discussion of the situation.

The British Minister<sup>13</sup> complied with similar instructions from the British Government in Canada at noon and I am informed that the Minister of Foreign Affairs shortly afterwards was received by the President. The joint statement of October 22nd of the American and Canadian banks was presented to the Secretary of Finance and Treasury late this morning.

Concerning the desirability of sending special bank representatives to Panama the Legation concurs with the local representatives that no advantage is to be gained through the interjection of home office talent. These local representatives have not been denied hearing, not having previously addressed the Government for the reasons given in their telegrams October 20th to their principals, as stated in the penult paragraph of the Legation's telegram number 108, October 21, 10 a. m.

FLEXER

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819.51/953 : Telegram

*The Secretary of State to the Chargé in Panama (Flewer)*

WASHINGTON, October 24, 1938—7 p. m.

59. Your 109, October 22, 3 p. m. Please leave an *aide-mémoire* in the following sense with the Minister for Foreign Affairs with reference to the pending legislation authorizing the issue of 6,000,000 balboas of Guarantee Bonds and establishing measures respecting to banking institutions and public utility enterprises. The contemplated legislation has moved so rapidly that the American interests concerned have not had full opportunity to consider its bearing on

<sup>10</sup> Narcisco Garay.

<sup>11</sup> See telegram No. 57, October 20, 7 p. m., to the Chargé in Panama, p. 811.

<sup>12</sup> Fernandez Jaen.

<sup>13</sup> F. E. F. Adams.



their respective enterprises. Already, however, the American banks whose branches would be required to invest 20 percent of their deposits from residents of Panama in Guarantee Bonds bearing 3 percent interest secured by payment of the same rate of interest by the *Banco Nacional* on the deposited proceeds of the bonds or to exchange the Guarantee Bonds par for par for repatriated bonds of Panama issues of 1923 and 1928 paying a reduced rate of only 3 percent interest and therefore probably not marketable at par, question whether in view of the banking laws of the United States they would not have to withdraw from operation in the Republic of Panama. This would be a practical situation the direct effects of which the Government of Panama would of course be in a position to appraise. Other features of the law may involve difficult and disturbing problems to other American enterprises in Panama.

These effects and the further apparent possibility that the proceeds of the Guarantee Bonds may be used to buy in bonds of the two outstanding dollar bond issues of the Republic of Panama at depreciated prices are of concern to the United States Government. In particular the practice of redemption of bonds at a discount caused by the failure of the debtor to pay contractual interest has been very severely attacked by the Securities and Exchange Commission in a report to the Congress<sup>14</sup> and a development of the kind in connection with the bonds of the Republic of Panama would no doubt attract grave criticism.

In view of all the circumstances, the Government of the United States hopes that legislation of the type now pending will not be hastily adopted and that time may be afforded for full consideration of its implications.

HULL

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819.51/956 : Telegram

*The Chargé in Panama (Flewer) to the Secretary of State*

PANAMA, October 25, 1938—9 a. m.

[Received 12:10 p. m.]

112. Referring to the Legation's telegram No. 111, October 24, 9 p. m.,<sup>15</sup> following passage of guarantee bond and banking bill<sup>16</sup> yesterday afternoon, the committee approved in first reading a bill

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<sup>14</sup> Securities and Exchange Commission, *Report on the Study and Investigation of the Work, Activities, Personnel and Functions of Protective and Reorganization Committees, Part V, Protective Committees and Agencies for Holders of Defaulted Foreign Governmental Bonds* (Washington, Government Printing Office, 1937), pp. 494 ff.

<sup>15</sup> Not printed.

<sup>16</sup> Law No. 28, approved October 25, 1938, *Gaceta Oficial*, October 28, 1938; Panama, *Leyes Elapidadas por la Asamblea Nacional de Panama, 1938* (Panama, 1939), pp. 137-141.

extending effect of mortgage moratorium law (law number 13, October 15, 1934<sup>17</sup> as extended by law No. 6, January 19, 1937<sup>18</sup> until December 31, 1940 [1938]. The Secretary of the Treasury supported bill with argument that such extension is required to meet the contingency of the banks' withdrawal.

With reference to the applicability of the law to deposits in institutions in Canal Zone and Panamanian jurisdiction of employees of the Panama Canal, the Panama Railroad and other United States Government agencies resident in the Canal Zone or in the Republic, the Governor of the Panama Canal states that he is being besieged by inquiries and desires that the Legation obtain an official statement from the President of the Republic. Please instruct.

FLEXER

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819.51/956 : Telegram

*The Secretary of State to the Chargé in Panama (Flexer)*

WASHINGTON, October 28, 1938—6 p. m.

61. Your 112, October 25, 9 a. m., second paragraph. You are requested to call on the Minister for Foreign Affairs and to say that this Government assumes that in view of Article III of the Convention of 1903,<sup>19</sup> the Panamanian Government does not maintain that the recently enacted "guarantee bond" bill (more specifically Articles III and IV thereof) is applicable to deposits payable at a branch or agency of an American institution when such branch or agency is located in the Canal Zone.

HULL

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819.51/956 : Telegram

*The Secretary of State to the Chargé in Panama (Flexer)*

WASHINGTON, November 2, 1938—5 p. m.

63. The Legation's despatch no. 545 of October 25<sup>20</sup> and telegram no. 112 of October 25, 9 a. m.

You are requested to call immediately upon the Minister for Foreign Affairs and to inform him, leaving an *aide-mémoire* of your remarks, that this Government, while reserving the right to make further observations at a later date with respect to the recently enacted Guarantee Bond Bill, assumes that the provisions of Article 9 of this bill are

<sup>17</sup> *Gaceta Oficial*, October 16, 1934; Panama, *Leyes Expedidas por la Asamblea Nacional de Panama, 1934-35* (Panama, 1935), pp. 19-23.

<sup>18</sup> *Gaceta Oficial*, January 25, 1937; Panama, *Leyes Expedidas por la Asamblea Nacional de Panama, 1936-37* (Panama, 1938), p. 193.

<sup>19</sup> Signed November 18, 1903, *Foreign Relations*, 1904, p. 543.

<sup>20</sup> Not printed.

not designed to apply to the Panama Railroad Company, whose rights are clearly set forth in the original concession obtained from the Colombian Government as subsequently confirmed by Article 8 of the Convention of 1903 between this Government and that of the Republic of Panama.

You should add that this Government also assumes that in view of the provisions of Article 10 of the Convention of 1903, the Panamanian Government does not maintain that the provisions of Articles 10 and 11 of the recently enacted Guarantee Bond Bill apply to officers, employees, laborers and other individuals in the service of the Canal, the Panama Railroad and the auxiliary works (including officers and men of the armed forces of the United States) who reside within territory subject to the jurisdiction of the Republic of Panama.

A memorandum <sup>21</sup> covering the points mentioned in this telegram, as well as that in the Department's 61 of October 28, 6 p. m., is being delivered to the Panamanian Minister in Washington.

HULL

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819.51/968 : Telegram

*The Chargé in Panama (Flewer) to the Secretary of State*

PANAMA, November 4, 1938—1 p. m.

[Received 6:47 p. m.]

123. A Foreign Office memorandum referring to the *aide-mémoire* directed by the Department's telegram No. 59 of October 24, 7 p. m. justifies the guarantee bond bill as remedying the previous lack of banking legislation securing and guaranteeing interests of local depositors. With reference to the redemption of outstanding bond issues at depreciated prices, the memorandum places responsibility upon the alleged failure of the United States to pay Canal annuities <sup>22</sup> since 1933, as specified in the convention of 1903, and upon the loss sustained by the constitutional fund.<sup>23</sup>

With reference to the Department's telegram No. 61, October 28, 6 p. m. the Minister for Foreign Affairs yesterday informed me that he was authorized by the Secretary of Finance and Treasury to state

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<sup>21</sup> Not printed; handed to the Panamanian Minister by the Under Secretary on November 7 (819.51/956).

<sup>22</sup> See *Foreign Relations*, 1934, vol. v, pp. 612 ff.; *ibid.*, 1935, vol. iv, pp. 911 ff.; *ibid.*, 1936, vol. v, pp. 856 ff.

<sup>23</sup> Article 138 of the constitution of Panama provided for setting aside \$6,000,000 derived from negotiations for the opening of an interoceanic canal to be invested for the benefit of future generations of the people of the country. By decree 66 of April 11, 1908, the President appointed William Nelson Cromwell, Fiscal Agent of the Republic of Panama in the United States for the administration of the Constitutional Fund. The Chase National Bank of New York was appointed Fiscal Agent to replace Cromwell by decree 135 of October 23, 1937, in accordance with a contract executed between the bank and the Republic of Panama on October 21, 1937 (819.51/903). The contract was published in *Gaceta Oficial*, January 11, 1938.

that Articles 3 and 4 are not held to apply to deposits payable at a branch or agency in the Canal Zone. The Legation's memorandum based upon the said telegram also anticipated the penultimate paragraph of the Department's telegram No. 63 of November 2, 5 p. m. and in this connection the Minister for Foreign Affairs stated that the provisions of Articles 10 and 11 are not held to apply to deposits made in a Canal Zone branch or agency by persons embraced in the categories covered by Article 10 of the convention of 1903.

Concerning the first paragraph of the Department's telegram No. 63 it is my view that the possibility of Article 9 being held to apply to the Panama railroad is extremely remote. However, action will be taken as instructed.

The Panamanian Government has been on holiday from November 2 to 4 and there will be no opportunity for reception by the Minister for Foreign Affairs before tomorrow. Inasmuch as the Minister is arriving Monday I believe it desirable for forceful effect that further representations be delayed until his initial call at the Foreign Office, and unless otherwise instructed this course will be followed.<sup>24</sup>

FLEXER

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819.51/968: Telegram

*The Secretary of State to the Chargé in Panama (Flexer)*

WASHINGTON, November 5, 1938—3 p. m.

65. Your 123, November 4, 1 p. m. The Department of State has signified to the Federal Reserve Board that it perceives no objection to the approval by the Board of an application by the Chase National Bank for permission to establish a branch in Balboa Canal Zone. This application was recommended for approval by the Federal Reserve Bank of New York, the Governor of the Panama Canal and the Secretary of War.

The Governor of the Panama Canal and the Secretary of War have also recommended that an application received by the former from the National City Bank of New York for permission to establish branches at the Atlantic and Pacific sides of the Canal Zone be approved, and the Department has informed the Federal Reserve Board that it sees no objection to such approval upon receipt of the application by the Board.

The Department is informed that the Federal Reserve Board in its session this morning granted formal approval to the Chase National Bank to establish a branch in Balboa Canal Zone as a subsidiary of the existing Cristobal branch.

HULL

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<sup>24</sup> The *aide-mémoire*, not printed, was delivered November 8.

819.51/980 : Telegram

*The Minister in Panama (Corrigan) to the Secretary of State*

PANAMA, November 21, 1938—2 p. m.

[Received 5 p. m.]

130. Referring to the Legation's despatch No. 564, November 12<sup>25</sup> the Royal Bank of Canada is paying off its depositors and preparing to withdraw from the Republic of Panama. The British Minister states that the withdrawal is definite and followed disregard of his instructed representations objecting to provisions of the so-called guarantee bond law.

A representative of one of the principal shipping companies has informed me that merchants have canceled many orders and that after goods which are already enroute have entered the country a serious curtailment of government revenues from import duties may be anticipated. The curtailment of credit by the two American banks which now furnish the bulk of the credit necessary for conduct of the mercantile operations from which the government derives a substantial portion of its revenues is already a fact. A prominent merchant and building contractor told me yesterday that merchants are considering closing their establishments for two days as a gesture of disapproval of the government's stand on the banking law. The resources of the Banco Nacional are completely inadequate to meet the situation.

I consider the situation very serious, and conversations with high government officials leave me with the impression that they have no very clear conception of the situation or of the condition in which the government is likely to find itself within the next few months. With reference to the government's last compromise proposal (rejected by the banks), that emission of guarantee bonds might be foregone if banks would make \$2,000,000 short-term loan, there is an unconfirmed rumor in limited circulation that Italian bank is interested.

Whatever financial difficulties the Panamanian Government encounters, it may be expected that the failure of the United States to pay the canal annuities will be given as the cause. In view of the fact that the treaty upon the ratification of which the payment of the annuities depends cannot be acted upon before the new congress convenes and even then may encounter delay, it seems to me vital that some way be sought to make available to the Panamanian Government the amount of its accumulated credit in order that the responsibility for the economic and political consequences of the ill-advised Panamanian legislation may not continue to be laid upon the United States.

CORRIGAN

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<sup>25</sup> Not printed.

819.51/980 : Telegram

*The Secretary of State to the Minister in Panama (Corrigan)*

WASHINGTON, November 23, 1938—5 p. m.

71. Your 130, November 21, 2 p. m. The Department is not unmindful of the possibility that an attempt might be made to connect the present financial difficulties with the delay which has occurred in final consideration by the United States Senate of the General Treaty of 1936. However, irrespective of the fact that it is very problematical whether the United States could voluntarily make available as an advance the accumulated credit either directly or through the Export-Import Bank, the Department is doubtful of the wisdom of such a move.

This Government has on at least two occasions informally suggested to the Government of Panama that the Guaranty Bond Bill and other recent legislative measures might well affect adversely the future economic development of the Republic, and later informed the Panamanian Government that before the Guaranty Bond Bill was adopted time should be afforded for full consideration of its implications.

These suggestions have apparently been without effect, and in consequence it might well be considered in this country that any financial assistance extended to Panama at this time could only facilitate the carrying into effect of the very legislation in question.

The Secretary, who is familiar with the background of the whole situation, is prepared to discuss the matter with appropriate Panamanian officials on arrival at Colón.<sup>28</sup>

HULL

819.51/983 : Telegram

*The Minister in Panama (Corrigan) to the Secretary of State*

PANAMA, December 2, 1938—3 p. m.

[Received 6:57 p. m.]

139. An administration banking bill was introduced in the National Assembly yesterday and passed in first reading in substitution for the controversial guarantee bond law. The measure entirely eliminates provisions relating to purchase of guarantee bonds which were to have been exchangeable at par for 1923 and 1928 external loan bonds. It is strictly a banking measure without mention of public utility enterprises and gasoline importers. It is understood to meet the objections of the American banking interests affected by the guarantee bond law and to have had their study in draft form.

<sup>28</sup> The Secretary of State while en route to the Lima Conference called on the President of Panama on November 30.

The bill requires Panaman incorporation with a paid up capital of not less than 250,000 balboas. A cash reserve of 20% of current deposits and 10% of savings accounts is specified. It further provides that 60% of the total deposits of entities domiciled in the jurisdiction of the Republic shall be held in the Republic, of which three-fourths shall be invested in operations authorized by the bill.

CORRIGAN

819.516/140

*The Minister in Panama (Corrigan) to the Secretary of State*

No. 621

PANAMA, January 14, 1939.

[Received January 17.]

SIR: I have the honor to refer to my despatch No. 583, of December 6,<sup>27</sup> and telegram No. 144, of December 9, 1938, 11:00 a. m.,<sup>27</sup> reporting the passage by the National Assembly of Panamá of a banking bill repealing the so-called Guarantee Bond Law which had threatened to force the withdrawal of foreign banking institutions from the Republic.

For the Department's convenience and the completion of its records there is transmitted herewith a translation<sup>27</sup> of the said banking law, published as Law No. 44, of December 9, 1938, in the *Official Gazette* of December 16, 1938. The Law incorporates the changes recommended by the Assembly committee, as reported in the Legation's despatch above mentioned.

Respectfully yours,

FRANK P. CORRIGAN

**EFFORTS OF THE UNITED STATES GOVERNMENT TO PREVENT THE SALE OF LAND ON PINAS BAY, PANAMA, TO GERMAN INTERESTS**

819.52G31/5: Telegram

*The Chargé in Panama (Flewer) to the Secretary of State*

PANAMA, May 19, 1938—2 p. m.

[Received 5:10 p. m.]

35. I am absolutely reliably informed that German interests are negotiating with local Swedish company in which Axel Wallenberg, former Swedish Minister to the United States is a partner, for purchase of tract of 5000 hectares surrounding Pinas Bay, Darien Province, and two outlying islands. Definite offer of \$30,000 acceptable to Germans. Local Swedish representative,<sup>28</sup> although anxious to

<sup>27</sup> Not printed.

<sup>28</sup> Hans Elliott, operator of the Elliott Shipping and Land Co., Inc., of Panama City.

dispose of nonproductive property, has cautioned against sale if investigation [shows?] German interests to be screen for Government. He is telegraphing Wallenberg at Stockholm accordingly.

Pinas Bay is the only unobstructed protected anchorage for deep draft vessels on Gulf of Panama, has been demonstrated to have no agricultural possibilities. It was German owned except Balboa. German interest arouses suspicion inasmuch as property has been demonstrated to have no agricultural possibilities. It was German owned prior to the war; then acquired by Ricardo Alfaro on technicality of tax arrears; by whom sold to Wallenberg. Military authorities informed.

**FLEXER**

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819.52G31/5 : Telegram

*The Secretary of State to the Chargé in Panama (Flexer)*

WASHINGTON, May 21, 1938—2 p. m.

20. Your 35, May 19, 2 p. m. The War and Navy Departments are telegraphing to the Commanding General and to the Commandant of the Fifteenth Naval District to consult with the Legation and to investigate the reported transaction. Please inform the Department promptly by telegram regarding all developments.

**HULL**

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819.52G31/6 : Telegram

*The Chargé in Panama (Flexer) to the Secretary of State*

PANAMA, May 23, 1938—11 a. m.

[Received 1:50 p. m.]

37. Referring to Legation's telegram No. 35, May 19, 2 p. m. Would it not be desirable to give consideration to direct approach to Wallenberg through the Legation, Stockholm, for identification of German interests referred to? This information might permit investigation by Department's representatives in Germany of possible official connection. Wallenberg's local representative is still without information.

Referring to the Department's No. 20 of May 21, 2 p. m.; the various Canal Zone establishments and the Legation habitually cooperate in such matters without special instruction.

**FLEXER**



819.52G31/6: Telegram

*The Acting Secretary of State to the Chargé in Panama (Flewer)*

WASHINGTON, June 4, 1938—2 p. m.

22. Your 35, May 19, 2 p. m. and 37, May 23, 11 a. m. The Swedish Minister here has inquired of Wallenberg through the Swedish Foreign Office as to whether the German group was acting as a screen for the German Government. The Swedish Minister has received a reply from Wallenberg reading substantially as follows:

“Agent at Panama in a telephone communication reported that purchase was being supported by German Government. Am unable to confirm the report.”

The interest of this Government in ascertaining the facts in the matter as well as the concern that would be caused by the transfer of the property to a German group having the support of the German Government was discussed this morning with the Panamanian Minister. The Minister stated that he would immediately send a telegram to his Government giving it a résumé of the information now available and requesting it to endeavor to develop further information as to the support which the German Government may be giving the German interests. The Minister is also informing his Government that you are being instructed to furnish additional information if requested by the Panamanian Government.

WELLES

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819.52G31/7: Telegram

*The Chargé in Panama (Flewer) to the Secretary of State*

PANAMA, June 6, 1938—11 a. m.

[Received 2:05 p. m.]

44. Referring to the Department's No. 22, June 4, 2 p. m. Agent at Panama did not report that purchase was being supported by German Government but suggested that Wallenberg investigate possibility. Referring to Swedish Foreign Office inquiry, Wallenberg cabled agent May 30.

“My answer was ‘Am informed German authorities involved but emphasized impossible guarantee correctness this information.’”

It is not believed that investigation by Panamanian Government will be productive of information not otherwise obtainable particularly since the negotiation has been entirely in Sweden. Embarrass-

ment of local agent, who has been extremely cooperative, should be avoided.

The Department's support of Commanding General's<sup>29</sup> recommendations to the War Department contained in last paragraph despatch 369, June 4,<sup>30</sup> is respectfully suggested.

FLEXER

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819.52G31/18 : Telegram

*The Chargé in Panama (Flexer) to the Secretary of State*

PANAMA, June 20, 1938—2 p. m.

[Received 4:05 p. m.]

52. Referring to Legation's No. 35, May 19, 2 p. m. and subsequent correspondence relative to German interest in acquisition Pinas Bay properties.

Elliott Shipping and Land Company received the following two telegrams June 17 from Wallenberg at Stockholm :

"Genoese Farben Industrie supported by Deutsche bank prepared pay 35,000 for Puerto Pinas. Kindly telegraph if you have made binding offer American Government and for which time, otherwise suggest leave property for inspection German buyers."

Second telegram: "Referring previous telegram today, order not create complications suggest allow American authorities reasonable time maximum 3 weeks take decision."

The Commanding General of the Panama Canal Department has not contacted Elliott here and no negotiations have been begun in Panama or have yet been authorized by War Department.

Elliott will be in New York from June 22 to 27, address care of Mr. Harloe, United Fruit Company, Pier 3, North River.

FLEXER

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819.52G31/18 : Telegram

*The Secretary of State to the Chargé in Panama (Flexer)*

WASHINGTON, June 22, 1938—noon.

25. Your 52, June 20, 2 p. m. It is probable that the War Department can take action as suggested in the last paragraph of your

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<sup>29</sup> Maj. Gen. David L. Stone.

<sup>30</sup> Despatch not printed. The last paragraph reads as follows: "Since there can be no ground for lawful objection to alien purchase of a property which has been under alien ownership about thirty years, the suggestion is being considered by the military that the 'Aurora' and 'Crepúsculo' tracts be leased from the Elliott Shipping and Land Company, the long-term contract to contain an option of purchase, rental payments to apply to the purchase price. Such an arrangement would be similar to that under which the military occupy the bombing and artillery range at Rio Hato and the adjacent aviation field at La Venta." (819.52G31/9)

despatch 369 of June 4.<sup>21</sup> A definite decision is expected today or tomorrow. Your comment is requested on the following points:

(a) If the War Department is to offer to lease the property, should the offer be made in Panama or to Elliott before he leaves New York?

(b) If the negotiations take place in Panama, will the company's representatives advise Elliott in New York, or should that be done from Washington?

(c) What is your opinion of a fair rental on the basis of a 5-year lease with option of purchase?

HULL

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819.52G31/19 : Telegram

*The Chargé in Panama (Flewer) to the Secretary of State*

PANAMA, June 23, 1938—2 p. m.

[Received 5 p. m.]

53. Following are the Legation's comments on lettered paragraphs Department's telegram No. 25, June 22, noon:

(a) It would be preferable that negotiations be conducted directly between Elliott and Department Commander in Panama where negotiators are acquainted and situation is mutually understood. The Department Commander is telegraphing the Commanding General, Second Corps Area, to confirm that Elliott will return to Panama before expiration 3 weeks limit offered by Wallenberg June 17.

(b) While company's representative in Panama states that he has full power of attorney, it is obvious from conversations that he could not commit company to agreement without communicating with Elliott or Stockholm.

(c) I believe General Stone's recommendation to War Department of annual rental of \$2,300, representing 6% interest on acceptable German offer plus allowance for taxes, to be equitable provided that there is genuine intent to exercise purchase option at \$35,000 on or before expiration of period of lease. Company's representative is personally skeptical of interest in a lease but it is believed that Elliott can be won over by definite assurance that purchase option will be exercised. Terms should be left to local negotiations.

FLEWER

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819.52G31/19 : Telegram

*The Secretary of State to the Chargé in Panama (Flewer)*

WASHINGTON, June 24, 1938—6 p. m.

26. Your 53, June 23, 2 p. m. The War Department now has informed the Department that it considers it desirable that negotiations

<sup>21</sup> See footnote 30, p. 824.

be entered into for a long term lease on the part of the War Department for the rental of the lands in question with the option of purchase at any time during the life of the lease. The War Department letter states in part:

"In view of the pending ratification of the treaty with Panama, signed March 2, 1936,<sup>32</sup> it is believed desirable that the preliminary arrangements be made by the State Department rather than by the War Department."

Immediately upon the return to Panama of Mr. Elliott please initiate negotiations with him and in collaboration with the Commanding General of the Canal Zone for a 5-year lease of the property at an annual rental of not to exceed \$2,300, with option of purchase at any time during the life of the lease at a price not to exceed \$30,000. The 5-year lease is deemed necessary in connection with obtaining the required legislative appropriations of funds for the purchase. If and when a lease is agreed upon it will be signed by the military authorities. The War Department is instructing General Stone by telegram in the sense of this paragraph.

With reference to paragraph (a) of your telegram 53, you will use your own discretion about participation in the negotiations after your preliminary conversation with Elliott.

HULL

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819.52G31/21 : Telegram

*The Chargé in Panama (Fleæxer) to the Secretary of State*

PANAMA, June 30, 1938—4 p. m.

[Received 9:40 p. m.]

56. Referring to the Department's 26, June 24, 6 p. m. It has been ascertained that Elliott will not immediately return to Panama but will sail for Europe on July 6 on the *Europa*.

In the circumstances it would seem advisable that the State or War Department initiate negotiations with him in New York or Washington.

I have kept Panamanian Minister for Foreign Affairs<sup>33</sup> verbally informed of the status of Pinas Bay matter. Garay . . . authorizes attribution to the President of Panama of assurance that the transfer of properties to German interests will not be permitted by Panamanian Government. He was vague as to ways and means but mentioned grounds of national security. He said that Under Secretary of State<sup>34</sup>

<sup>32</sup> Department of State Treaty Series No. 945, or 53 Stat. 1807; see also *Foreign Relations*, 1936, vol. v, p. 855.

<sup>33</sup> Narcisco Garay.

<sup>34</sup> Sumner Welles.

had expressed the hope to the Panamanian Minister at Washington that the sale might be prevented. It was recalled to him that my instructions under the Department's telegram above mentioned to initiate negotiations for lease were given subsequent to the Minister's departure and that therefrom the Department's view might be assumed that a leasing arrangement presented the most practicable solution. He reacted unfavorably to the suggestion of lease (even though purchase option was not mentioned) saying that he had not understood our proposal in this sense and had not spoken of it to the President. I have specifically requested that President's views on such a lease be ascertained.

The military authorities are in agreement with the Legation that the stoppage of transfer to German interests simply as German may create embarrassing situation in the event of possible diplomatic protest alleging discrimination in as much as it cannot be hoped that the interest of the United States will remain unrevealed. This thought was advanced in my conversation with the Minister for Foreign Affairs. The possibility of a reversal of present attitude under future administrations should be considered. Dr. Boyd<sup>35</sup> gives promises of being helpful and states that he has urged upon the President the necessity for preventing sale to Germans, possibly by purchase or expropriation by Panama. He is interested in War Department proposal which he will discuss with the President at earliest available opportunity.

FLEXER

819.52G31/21 : Telegram

*The Secretary of State to the Chargé in Panama (Flexer)*<sup>36</sup>

WASHINGTON, July 1, 1938—5 p. m.

28. Your 56, June 30, 4 p. m. If there is a possibility that the sale of the property to Germans could be prevented by purchase or expropriation by the Panamanian Government, such a solution would be entirely satisfactory to this Government. The War Department has no desire to lease or purchase the property except as a necessary means to prevent its acquisition by the German or Japanese Government. This is the type of case envisaged in the new treaty between Panama and the United States which is of concern to both governments and in which this Government was confident when it signed the new treaty it could count upon the cooperation of the Panamanian Government. It is a case where the control of these lands by the German

<sup>35</sup> Augusto S. Boyd, Panamanian Minister in the United States, then on a visit to Panama.

<sup>36</sup> Notation on margin: "This procedure discussed with and has approval of the War Department."

Government under the screen of purchase by private interests would have elements of danger. If it becomes necessary for the lands to pass to control by a foreign government the Department of course has no doubt as to the preference of the Panamanian Government. You may discuss the matter further with the Minister for Foreign Affairs along these lines, and point out to him that as a practical matter the time element is most important in the present case. If the Panamanian Government can work out a satisfactory solution before Elliott's departure from New York or can give assurance that a solution will be worked out before the expiration of the 3-week period granted for decision by our Government, such a disposal of the case would be eminently satisfactory to the Department.

However, if it is necessary to proceed with the proposal for lease and purchase by the War Department, the Department considers it preferable for the proposal to be presented to the company's representatives in Panama in accordance with the Department's telegram 26, June 24, 6 p. m. The company representatives should be requested to transmit the proposal to Elliott by telegram in New York prior to his departure on July 6 and to request his instruction. The War Department is telegraphing similar instructions to General Stone.

Please inform the Department by tomorrow, if possible, if it will be necessary to proceed with the lease proposal. In that event, the Department will communicate with Elliott in the sense that a proposal will be made to the company's representatives in Panama and that representatives of the State and War Departments will be glad to discuss the matter with him if he cares to come to Washington. The Department agrees with the War Department's decision that it would be undesirable to have negotiations conducted by the Commanding General of the Second Corps Area in New York.

HULL

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819.52G31/23 : Telegram

*The Chargé in Panama (Flewer) to the Secretary of State*

PANAMA, July 2, 1938—3 p. m.

[Received 11:10 p. m.]

57. Referring to the Department's No. 28, July 1, 5 p. m. the Minister for Foreign Affairs was shown the above mentioned telegram in discussing Pinas Bay matter this afternoon. On Tuesday the President had specially instructed him to assure the Legation categorically that the sale of these properties will not be permitted by Panaman Government. He said that the President throughout has not hesitated in recognizing the obligation to cooperate with the United States under the new treaty.

The Minister for Foreign Affairs stated that Company's representative here will be instructed to inform Elliott at once that the Panaman Government will not permit pending transaction to be consummated and to request that Stockholm negotiations be abandoned until Elliott has heard the Panaman Government's views and proposals on his return to Panama from Europe. Pressed concerning nature of intended proposal to Elliott, he said that while purchase or expropriation has been mentioned no proposal has yet been formulated and that the Government's course will probably be determined in conversations with Elliott. He insisted repeatedly that the United States Government need not be concerned that the properties will be permitted to pass to potentially unfriendly alien interests.

While the assurance so given must be accepted perforce, the Department's further instructions are requested. Canal Zone military authorities informed.

FLEWER

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819.52G31/24 : Telegram

*The Chargé in Panama (Flewer) to the Secretary of State*

PANAMA, July 3, 1938—11 a. m.

[Received 1 p. m.]

58. Referring to the Legation's number 57, July 2, 3 p. m. Dr. Garay informed me this morning that he telegraphed to Panaman Consul General, New York following our conversation instructing that Elliott be informed that sale or alienation of Pinas Bay properties must have prior approval of Panaman Government.

FLEWER

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819.52G31/23 : Telegram

*The Secretary of State to the Chargé in Panama (Flewer)*

WASHINGTON, July 5, 1938—5 p. m.

29. Your 57, July 2, 3 p. m. and 58, July 3, 11 a. m. The War Department concurs in the opinion of the State Department that the assurances of the Panaman Government should be accepted. General Stone is being instructed to keep in touch with you and to take no further action for the present.

Please express to the Minister for Foreign Affairs the Department's appreciation of the cooperative attitude of the Panaman Government and inform him that, in view of the assurances given the Legation, no further action in the matter will be taken by this Government except after full consultation with the Panaman Government.

HULL

819.52G31/25

*Memorandum by the Chief of the Division of the American Republics  
(Duggan) of a Conversation With the Panamanian Minister  
(Boyd)*

[Extract]

[WASHINGTON,] September 26, 1938.

The Minister informed me that he was happy to report that the Panamanian Government had decided to purchase the Piñas Bay property. He thought that by this time the purchase had actually been effected. I expressed deep appreciation for the very prompt and effective interest which the Panamanian Government had taken in this matter, adding that it was an example of the way important problems affecting the Canal might be settled where there was a real desire to cooperate on both sides. I requested the Minister please to express to the President when he next met him this Government's very keen gratitude for the assistance which the Panamanian Government had been in this matter.

. . . . .



PERU

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT  
BETWEEN THE UNITED STATES AND PERU

611.2331/81

*The Ambassador in Peru (Steinhardt) to the Secretary of State*

No. 142

LIMA, December 1, 1937.

[Received December 7.]

SIR: I have the honor to report that I have had my first official talk with Dr. Carlos Concha since he became Minister of Foreign Affairs. I was with him at the Foreign Office for over an hour.

In connection with the Department's desire to negotiate a trade agreement with Peru, Dr. Concha expressed himself as equally desirous, in principle, of negotiating such an agreement. He said that he could envisage many advantages to both countries and that he personally believed the time was propitious to explore the possibilities. He added that I must understand President Benavides had the last word in such matters and that it was his intention to discuss the subject with the President in the immediate future, and to recommend to him that he be authorized to proceed with the negotiations. He said that if the President approved, he would at once designate someone in the commercial division of the Foreign Office to undertake the assembly of material.

Dr. Concha assured me that as soon as he had talked the matter over with the President he would discuss the subject further with me. He added that in the meantime he would be very pleased to have any suggestions from the Department as to the *modus operandi* to be followed in connection with the probable negotiations.

Respectfully yours,

LAURENCE A. STEINHARDT

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611.2331/83

*The Ambassador in Peru (Steinhardt) to the Secretary of State*

No. 149

LIMA, December 3, 1937.

[Received December 11.]

SIR: I have the honor to refer to my despatch No. 142 of December 1, 1937, and to report that in the course of a further talk with Dr. Concha this afternoon, he advised me that having discussed the sub-

ject with President Benavides, he was now prepared to explore the possibilities of a trade agreement between the United States and Peru. I judged from the nature of Dr. Concha's comments that he is prepared to proceed at once.

I venture the suggestion that the negotiations be commenced and pressed as expeditiously as possible because of the rapidity with which expediency causes changes in governmental policy here. Should the price of cotton continue to decline—or even remain where it is for a period of months—or should the Peruvian Government encounter difficulties in marketing its basic crops in markets other than the United States, it is quite possible that sufficient pressure might be brought to bear upon the Peruvian Government by other governments to cause it to abandon—by necessity—a contemplated trade agreement with the United States.

It is my judgment that the present relatively satisfactory business conditions in Peru resulting from a good export business at reasonable prices during the past eighteen months, will continue only for a few months longer and that some months from now a substantial business recession will take place. If the contemplated trade agreement has not been concluded before a business recession becomes apparent to the general public, the chances of negotiating any such agreement will be materially diminished. Furthermore, government revenues, which are derived from both import and export duties, will probably commence to decline within the next few weeks. As the budget is now being prepared on the assumption that revenues in 1938 will equal those of 1937—which I doubt will be the case—the Government will be less inclined to make concessions in a trade agreement once the amount of the decline becomes apparent.

For these and other reasons akin to the foregoing, it seems to me fairly obvious that the more rapid the negotiations can be concluded, the better the terms will be for the United States.

Respectfully yours,

LAURENCE A. STEINHARDT

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611.2331/83

*The Secretary of State to the Ambassador in Peru (Steinhardt)*

No. 48

WASHINGTON, December 31, 1937.

SIR: Reference is made to your despatch No. 149 of December 3, 1937 regarding the possibility of a reciprocal trade agreement with Peru.

You should inform the Foreign Minister that the Department is gratified to learn of the interest of the Peruvian Government in a trade agreement with the United States and that your Government is glad to join with his Government in exploring the possibilities of

such an agreement. You should explain, at the outset of the exploratory conversations, that before this Government would be prepared to make any public announcement (such as is made in accordance with procedure here) regarding the initiation of trade-agreement negotiations, it would have to be definitely assured that the Peruvian Government would negotiate upon the basis of the unconditional most-favored-nation principle as applied to all forms of trade and payments control. It should be made clear that the acceptance of this basis for negotiation would involve the removal of any discrimination against the trade of this country that might exist. In this connection, if you deem it advisable, you may state that the prompt removal by Peru of any discrimination that may exist would greatly facilitate the progress of the exploratory conversations.

In view of the nature of the commercial agreement between Peru and Chile,<sup>1</sup> you may state, if you deem it advisable, with respect to the question of contiguous countries, that this Government would wish to be assured also, prior to any public announcement, that the Peruvian Government would not insist upon trade arrangements with such countries constituting an exception to its pledge of unconditional most-favored-nation treatment in a trade agreement with the United States.

You may, if you deem it useful, outline the customary procedure set forth below which has been followed by this Government in the negotiation of trade agreements. As soon as possible after agreement has been reached upon the basis for the negotiations, a preliminary public announcement is made by this Government that negotiations are contemplated. The purpose of this announcement is to afford interests in this country an early opportunity to present suggestions as to the import and export products to be considered in connection with the agreement. After an interval of not less than five weeks, formal public notice of intention to negotiate is given. Accompanying the formal notice, there is published a list of products on which the United States will consider granting concessions to the other country. This list, however, does not constitute a definite commitment by this Government to grant a concession on any of the products listed. In order to be in a position to publish such a list, it is necessary for this Government to have a list of products on which the Government of the other country contemplates requesting concessions from the United States.

With respect to the commodities which the Peruvian Government might eventually wish to include in such a list, you may inform the Foreign Minister that this Government in the negotiation of trade agreements follows in general the rule of the principal supplier, that

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<sup>1</sup> Signed March 17, 1934; for text, see Peru, *Tratados, Convenciones y Acuerdos Vigentes entre el Peru y otros Estados* (Lima, 1936), vol. I, p. 214.

is, that concessions usually are granted in the first instance to those countries which are the chief source of supply of imports into this country of the respective commodities. In this connection, however, you may also point out to the Foreign Minister that through the application of the unconditional most-favored-nation clause in an agreement with the United States, Peru would obtain the benefit of any concession granted to a principal supplier of any commodity which Peru, although not such a principal supplier, exports to the United States. Keeping in mind the foregoing, a tentative list of the commodities on which the Peruvian Government contemplates requesting concessions of this country might usefully be furnished by that Government as soon as convenient after accord has been reached on the basis for negotiations.

In connection with the preliminary work here on the commodities on which concessions might be requested of the Peruvian Government, it would be helpful if the Embassy were to supply the Department at an early date with a list of the products imported into Peru from this country upon which it believes concessions could most usefully be requested by this Government. If possible, this information should be compiled without approaching commercial interests in Peru. If it should be necessary to consult such interests, the approach should be made in such a manner as not to reveal the purpose of the inquiry. In presenting this information, it would be desirable, in the case of each commodity discussed, to point out whether or not the present Peruvian tariff constitutes an undue burden on importation from this country; whether a lowering of the tariff might be expected to result in increased imports from the United States; whether there exist any special local factors which should be taken into consideration, such as, for example, the competitive situation with respect to similar commodities imported from other countries, the possible influence of the internal tax structure on the sale of the product, any domestic production of the commodity, or any local distribution problems which it would be desirable to consider; and, in general, any other information which the Embassy deems pertinent to a complete study of the items upon which this Government might request concessions. In compiling this information you may wish to secure the cooperation of the Consul General and the Commercial Attaché.

There is being forwarded to you under separate cover a copy of the "standard" general provisions<sup>2</sup> which have been developed for use in reciprocal trade agreements. It would be helpful if the Embassy were to provide the Department with its comments on the applicability of these provisions in connection with an agreement

<sup>2</sup> For text of original standard general provisions, see *Foreign Relations, 1935*, vol. I, j. 541. Minor changes in these standard provisions were made from time to time.

with Peru, pointing out particularly any instances where it would appear that legislative measures or other practices existing in Peru might be in conflict with any of these standard provisions. You should also provide the Department with your views as to the adequacy of these general provisions in the light of such measures or practices.

The Department appreciates the views expressed in your despatch No. 149 of December 3, 1937, as to the advantages to be derived from the prompt inauguration of negotiations and from a sustained effort to consummate these negotiations as rapidly as possible. For this reason the Department trusts that it will be possible for the Embassy to compile and forward at the earliest possible moment, consistent with the other work of the Embassy and Consulate General, the information requested in this instruction and in the Department's instructions Nos. 23 and 28 of November 3 and 13,<sup>3</sup> respectively.

You should report fully the results of any conversations you may have with the Foreign Minister on the question of a possible trade agreement.

The Department is greatly interested in your comments with respect to the question of ocean freight rates, as contained in your despatch No. 140 of November 30, 1937,<sup>4</sup> and in accordance with the established practice followed in similar situations has brought your comments confidentially to the attention of the Maritime Commission. However, the Department does not yet know what action it may be possible for the Commission to take regarding this matter, but will keep you apprised of developments.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

611.2331/86

*The Ambassador in Peru (Steinhardt) to the Secretary of State*

No. 195

LIMA, January 8, 1938.  
[Received January 18.]

SIR: I have the honor to refer to the Department's instruction No. 48 of December 31, 1937, regarding the possibility of a reciprocal trade agreement with Peru. Immediately upon receipt of the Department's instruction I conferred with Dr. Concha and conveyed to him the substance thereof.

As Peru has not in the past either accepted or practiced the unconditional most favored nation principle, I feared that the required informal assurance of the acceptance of this principle as a preliminary to the opening of negotiations might constitute an insuperable barrier. Dr. Concha intimated, however, that he was not opposed to the accept-

<sup>3</sup> Neither printed.

<sup>4</sup> Not printed.

ance of this basis of negotiation, contenting himself with the observation that he might find himself confronted with practical difficulties arising out of the existing commercial agreement between Peru and Chile.<sup>5</sup> He made particular reference to the free entry of Chilean wheat.

I asked him whether Peru had any commitments to Ecuador, Colombia, Brazil or Bolivia—as the other contiguous countries—which might create special problems in the course of negotiations with the United States based on the unconditional most favored nation principle. Dr. Concha replied that so far as he could recall, there were none. I inquired particularly as to Peruvian-Bolivian commercial relations and was informed that they were at present on a most favored nation basis and would not create any difficulty in the course of negotiations with the United States.

Dr. Concha then asked me whether, if he agreed to the unconditional most favored nation principle as the basis for the negotiations, it would be possible—should he find it imperative—to make one or more reservations or exceptions arising out of the commercial agreement with Chile which he added was all important to Peru. I told him that this was a question which I was neither competent nor authorized to answer, but that I would be glad to transmit his inquiry to the Department for an expression of its views.

Dr. Concha expressed his preference for a trade agreement with the United States as against the existing agreement with Great Britain<sup>6</sup> and voiced his chagrin at having been virtually compelled to negotiate the agreement with Great Britain, emphasizing that he would much preferred to have made an agreement with the United States. He added that the United States having closed its doors to every Peruvian export which permitted the country to eke out an economic existence, he had been compelled to make trade agreements with those countries which had been prepared to receive Peruvian exports. He said he hoped there had been a change in the position of the United States and that if such a change became manifest in the course of the negotiations, it would afford him great personal satisfaction to be the individual to conclude a trade agreement with the United States.

He then remarked that he assumed additional concessions on sugar could or would be granted by the United States and that while such concessions would be welcome and were unquestionably desired by Peru, he was more anxious to obtain concessions on commodities and products which were not—as he put it—like sugar, in the hands of three or four large foreign interests. He particularly mentioned *baleta*, copper, wool, hides, alpaca, vanadium, and a long staple cotton

<sup>5</sup> Peru, *Tratados* (Lima, 1936), vol. I, p. 214.

<sup>6</sup> Signed October 6, 1936; for text, see Peru, *Memoria del Ministro de Relaciones Exteriores, 13 de Abril a 22 de Octubre de 1936* (Lima, 1938), p. 105.

which he said he understood was not grown in the United States. I again remarked that I was neither competent nor authorized to discuss specific commodities or products, but said that when his list of desired concessions was prepared it would, of course, be examined by the Department for appropriate comment. I added that the only assurance I could give him was that every suggestion or request made by the Peruvian Government would receive sympathetic consideration from the Department, and that if no concession could be made in respect of any one or more specific commodities or products, I was sure that he would find the reason for the inability to make a concession rested upon a sound basis and would not be occasioned by a failure to understand or sympathize with Peru's export problems.

Dr. Concha thanked me for this assurance and said he was convinced that the Department was really desirous of helping Peru and of relieving his country insofar as it was possible for the United States to do so, from the necessity of granting exceptionally favorable treatment to those countries which have been freely accepting Peruvian exports.

Dr. Concha asked me where the negotiations would take place and I told him that while I did not know the Department's disposition on this point, it had been customary for the negotiations to be carried on in Washington. While I gained the impression that he would prefer to conduct them in person and that a much more expeditious and perhaps satisfactory outcome could be thus achieved, I do not believe he will raise the slightest objection should the Department express a preference for Washington as the situs of negotiations.

I referred to the existing discrimination against imports from the United States and particularly to our loss of a substantial part of the Peruvian market for commodities and products which Peru has heretofore freely purchased in the United States. Dr. Concha replied that he had sought to avoid this undesirable development by offering to negotiate a trade agreement with the United States some years ago, but that he had been given to understand at that time that the United States was not prepared to negotiate, and that in consequence he had been obliged to make arrangements with those countries which at the time were prepared to accept Peruvian exports. He added that in most instances the terms which had resulted in discrimination against the United States had been forced upon Peru.

Dr. Concha remarked that as a result of his many years in the United States he had understood at the time that political considerations, and particularly the necessity of ratification by the Senate, had stood in the way of a trade agreement with the United States, and that in his opinion the authority granted the President under

the Trade Agreements Act<sup>7</sup> to negotiate commercial treaties without the consent of the Senate—thereby minimizing the effects of lobbying and eliminating sectional and political considerations—constituted the greatest single step by the United States towards the recapture of at least a part of its lost trade with Central and South America that had been made within a generation.

This being our first detailed discussion of the subject, I deemed it inexpedient to urge Dr. Concha to take immediate steps looking towards the removal by Peru of the discrimination that now exists against our trade. In my opinion were I to succeed in persuading him to take such steps, he would meet great resistance which might seriously imperil the successful outcome of the negotiations about to be undertaken. Peruvian mentality, coupled with the psychology of the individuals whose cooperation he would require, and of those most affected by such action, would demand immediate disclosure of the concessions to be made by the United States in return for the removal of existing discriminations. In the absence of Dr. Concha's ability to state just what concessions are to be received from the United States, his position in the trade negotiations would be materially weakened. . . .

At the close of our conversation, Dr. Concha stated that he was not at the moment prepared to give me the definite informal assurance required by the Department that the Peruvian Government would negotiate upon the basis of the unconditional most favored nation principle and would not be until he had first made a study of all of Peru's existing trade agreements, but that he would make such a study at the earliest possible moment and would discuss the subject further with me as soon as he was in a position to do so. He added that he might find it expedient to appoint a committee to furnish him with the necessary data and to advise with him if and when the negotiations began.

I entertain the hope that I may have some further word for the Department on this subject in the near future.

Respectfully yours,

LAURENCE A. STEINHARDT

611.2331/87

*The Ambassador in Peru (Steinhardt) to the Secretary of State*

No. 211

LIMA, January 15, 1938.

[Received January 21.]

SIR: I have the honor to refer to my confidential despatch No. 195 of January 8, 1938, and to report that I have had a further con-

<sup>7</sup> Approved June 12, 1934; 48 Stat. 943.



ference with Dr. Concha regarding the possibility of a reciprocal trade agreement with Peru. Dr. Concha stated that his study of all of Peru's existing trade agreements was continuing and that he hoped to be able to discuss the subject further with me in about a week.

Dr. Concha intimated that notwithstanding Peru's previous policy against entering into trade agreements incorporating the unconditional most favored nation principle, he might be prepared to give the informal assurance required by the Department as a preliminary to opening negotiations, provided he was permitted to make a reservation with respect to Chile pending a more intensive and detailed study of the effect upon Peru, under the treaty with Chile, of an agreement with the United States based upon the unconditional most favored nation principle. He added that he was also considering a temporary reservation arising out of the treaty with Great Britain, but after a brief discussion concerning the provisions of this treaty, concluded by saying that although it had been urged upon him by some of his associates, he was by no means convinced that any reservations need or should be made in respect of the treaty with Great Britain on the grounds that he, personally, was opposed to Great Britain having any concessions in the Peruvian market which were not accorded to the United States.

It is my guess, therefore, that when Dr. Concha gives me his reply to the requested informal assurance, it will include a reservation only in respect of the trade agreement with Chile. Should this prove to be the case, I take the liberty of recommending,—if consistent with the Department's policies,—that his informal assurance of a willingness to negotiate on the unconditional most favored nation principle, subject only to such specific reservations as he may find it necessary to make arising out of the trade agreement with Chile, be accepted as the basis for opening negotiations. I make this suggestion because I am reasonably satisfied that in the course of the negotiations Dr. Concha will abandon any reservation arising out of the trade agreement with Chile that he does not find absolutely essential and which the Department might consider entirely reasonable.

My object in endeavoring at this time to anticipate Dr. Concha's reply is to obtain the necessary instructions from the Department so as to be in a position to answer him immediately, should my guess as to his probable position prove to be correct so that no time need be lost in transmitting Dr. Concha's final reply to the Department.

Respectfully yours,

LAURENCE A. STEINHARDT

611.2331/87

*The Secretary of State to the Ambassador in Peru (Steinhardt)*

No. 83

WASHINGTON, March 3, 1938.

SIR: Reference is made to your despatches No. 195 and No. 211 of January 8 and 15, 1938, respectively, regarding the possibilities of a reciprocal trade agreement between the United States and Peru. The Department wishes to commend you and your staff for the manner in which the preliminary informal conversations with the Peruvian Foreign Minister are being handled, and the way in which the preliminary data have been prepared and submitted.

Three points raised in the despatches under reference appear to require comment by the Department at this time. They are (1) the question of this Government allowing an exception to the unconditional most-favored-nation clause in a trade agreement with Peru, to cover certain phases of trade between Peru and Chile under the existing commercial agreement between the two countries; (2) the situs of trade-agreement negotiations; and (3) the timing of the removal by Peru of existing discriminations against American trade.

With respect to the first point, the Department is not in a position to give you a definitive reply until it has received an indication as to the views of the Peruvian Foreign Minister following completion of his study of trade relations between his country and Chile. If the Foreign Minister should state that in an agreement with the United States his Government would expect to have all or any part of that trade excepted from the provisions of the most-favored-nation clause, you should inquire upon what basis such an exception is requested, and transmit his reply to the Department for consideration, together with such comments as you may deem appropriate. As you of course are fully aware, the Department would naturally be opposed to any weakening of that principle by exceptions to the most-favored-nation clause which are not founded upon such special conditions as to permit them to be generally recognized as long standing and legitimate.

Regarding the second point, the situs of negotiations, the Department has given careful consideration to the views expressed in your despatches under reference. Unless unforeseen and unusual circumstances should arise which would necessitate a change in the Department's opinion, no objection is perceived to negotiations being carried on in Lima, once the basis therefor has been agreed upon, and you may so inform the Foreign Minister.

With respect to the third point, the Department does not believe it will be necessary to discuss this question with the Foreign Minister until an accord has been reached on point one, considered above. In the event the Foreign Minister's conclusion on that point should be that Peruvian trade with Chile would not be excepted from the provi-

sions of the most-favored-nation clause in an agreement with the United States, and the question of any other exceptions has been settled in a similar manner, so that a basis for negotiations satisfactory to this Government has been reached, you may then convey to him the substance of the following: Once an accord has been reached upon the basis for negotiations, this Government would be prepared to issue its preliminary announcement of intention to negotiate a trade agreement, on the understanding that the Peruvian Government would be prepared to extend to American trade, not later than the day of the formal public notice, treatment on a basis of full equality with that accorded the commerce of any other nation. This would imply, naturally, the removal from that time forward of any discriminations against American trade which might then exist.

In connection with the formal notice of this Government, which would be issued subsequent to the preliminary announcement, there would be published a list of the commodities on which this Government would consider granting concessions to Peru in a trade agreement. In preparing this list for publication, this Government would need to be furnished with a list of the commodities on which the Peruvian Government may request concessions of the United States, and as mentioned on page 3 of the Department's instruction No. 48 of December 31, 1937,<sup>8</sup> the Peruvian request list could usefully be furnished as soon as convenient after agreement has been reached as to the general basis for negotiations, in any event not later than shortly after the issuance of the preliminary public announcement.

Prior to publishing, in connection with this Government's formal public notice, a list of commodities on which concessions to Peru would be considered, the contents of such list would be made known to the Peruvian Government and the approval of that Government would be obtained prior to its publication. While the publication of such a list would not commit this Government to grant concessions on any or all of the commodities mentioned therein, it would probably meet the objection you anticipate to a request for a removal of discriminations by Peru without a knowledge on the part of officials of that Government of the concessions which might be expected in a trade agreement with the United States.

For your information, and in case the question should arise during your preliminary conversations with the Foreign Minister, the reason this Government publishes a list of the commodities with respect to which the granting of concessions to the other Government may be considered, and to which consideration will be restricted in the negotiations, is to provide all interested persons with definite and official notification as to whether any product in which they are interested is

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<sup>8</sup> See the paragraph beginning "With respect to the commodities . . .", p. 833.

under consideration, in sufficient time for them to prepare and submit appropriate briefs to the Committee for Reciprocity Information and to make application to that Committee to appear at the oral hearings, thus saving them the trouble of preparing and submitting briefs and making oral presentations on any product not concerned in the negotiations.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

611.2331/92

*The Ambassador in Peru (Steinhardt) to the Secretary of State*

No. 312

LIMA, March 11, 1938.  
[Received March 18.]

SIR: I have the honor to report that in the course of a conversation yesterday afternoon at the Foreign Office with Dr. Concha, he explained to me that the delay in expressing his readiness to enter upon the negotiations for a trade agreement on the unconditional most favored nation basis, had been occasioned by inquiries propounded to him by the President<sup>9</sup> and the Minister of Finance<sup>10</sup> as to the extent to which Peruvian governmental income might be affected by a reciprocal trade agreement with the United States upon an unconditional most favored nation basis.

Dr. Concha said that the President was "jittery" about governmental income for 1938 and that between the financial conservatism of the President and the Minister of Finance, it had become necessary for him to undertake to satisfy them that the budget would not be seriously affected by the acceptance of the unconditional most favored nation clause as a basis for a trade agreement with the United States. He observed that there had been a substantial loss of revenue resulting from the treaty with Great Britain and that he was now engaged in assembling a great many facts and figures in order to demonstrate to the President and Minister of Finance that there would not be any further substantial loss in revenue arising out of the proposed trade agreement with the United States.

I said to Dr. Concha that I hoped he would not confine his study—as appears to be the point of view of the President and Minister of Finance—to a possible substantial loss in import duties, and suggested that in his future discussions with the President he refer to the fact that export duties and other taxes played just as important a role as did import duties in relation to governmental income, and that even assuming a moderate loss in import duties,—which I doubted would be the case—there was every reason to believe that

<sup>9</sup> Oscar R. Benavides.

<sup>10</sup> Benjamin Roca.

any such loss would be more than made good by increased export duties and receipts from various internal sources such as income and corporation taxes.

I also pointed out to Dr. Concha that the desirability of the proposed trade agreement did not rest solely with import and export duties or other tax revenues, but that if the general level of the economy of the country was raised by such a trade agreement, the resultant greater assurance of political stability, general contentment, increase in all values and economic improvement must eventually be reflected in expanding governmental revenues. I referred to several of the large number of internal taxes from which the Government receives substantial revenues and indicated how, in my opinion, each one of these sources of income might and probably would be augmented as the result of a trade agreement with the United States. Dr. Concha said that he would make use of the points brought out by me in his next discussion with the President and the Minister of Finance. . . .

In view of the fact that Dr. Concha personally favors a trade agreement with the United States, based on the unconditional most favored nation clause, I have little doubt that the facts and figures which he is assembling will eventually satisfy the President and Mr. Roca that their fears in respect of loss of revenue are exaggerated.

While I do not expect a reply from Dr. Concha in the immediate future accepting the unconditional most favored nation clause as the basis for negotiations, I have no reason to believe that his reply will be long delayed. He is at the moment preoccupied with several other important matters, particularly the Ecuadoran boundary dispute,<sup>11</sup> but assured me that as soon as he has a little more time to devote to the subject, he will press the trade agreement matter as rapidly as possible.

Respectfully yours,

LAURENCE A. STEINHARDT

611.2331/91a : Telegram

*The Secretary of State to the Ambassador in Peru (Steinhardt)*

WASHINGTON, March 12, 1938—2 p. m.

11. The Department understands that since December 1934, Peru has extended to Spain the tariff concessions granted to Chile in the *modus vivendi* of 1932<sup>12</sup> and later embodied in the Treaty of 1934.<sup>13</sup> Please refer to Embassy's despatch No. 3945 of May 3, 1935.<sup>14</sup>

<sup>11</sup> See pp. 217 ff.

<sup>12</sup> Signed October 31, 1932, Chile, *Tratados Internacionales de la República de Chile* (Santiago, 1935).

<sup>13</sup> Peru, *Tratados* (Lima, 1936), vol. 1, p. 214.

<sup>14</sup> Not printed.

If you find the Department's understanding is correct and such extension of concessions to Spain still continues, it would seem desirable to refer to this situation in case the Foreign Minister is disposed to reach the conclusion that Peru could not extend to this country the tariff concessions granted to Chile.

If the Department's understanding is correct, Peruvian concessions to Chile have been extended to Spain on the same basis, i. e., most-favored-nation treatment, as would be expected by this Government in connection with a trade agreement with Peru.

In the event of a favorable response by the Foreign Minister to the basis for trade-agreement negotiations as set forth in the Department's instructions No. 48 of December 31, and No. 83 of March 3, please inform the Department by telegram, in order that preparatory work here may be accelerated.

HULL

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611.2331/92 : Telegram

*The Secretary of State to the Ambassador in Peru (Steinhardt)*

WASHINGTON, March 26, 1938—1 p. m.

12. Your despatch 312, March 11. If you deem it advisable and believe it would strengthen Foreign Minister's position with President and Finance Minister in trade agreement discussions, you may assure Concha with respect to possible revenue loss through tariff reductions, that this Government would not expect concessions from Peru which would seriously affect customs revenues.

Preliminary analyses indicate our requests of Peru would in a majority of cases probably be for bindings rather than reductions in import charges.

HULL

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611.2331/103

*Memorandum of Conversation, by Mr. H. Gerald Smith of the  
Division of Trade Agreements*

[WASHINGTON,] June 24, 1938.

Participants: Ambassador Steinhardt  
Mr. Hawkins <sup>15</sup>  
Mr. Sparks, RA <sup>16</sup>  
Mr. Sappington <sup>17</sup>  
Mr. Smith

Ambassador Steinhardt called at the Trade Agreements Division today to discuss the question of a possible trade agreement with Peru,

<sup>15</sup> Harry C. Hawkins, Chief, Division of Trade Agreements.

<sup>16</sup> Edward J. Sparks, of the Division of the American Republics.

<sup>17</sup> James C. Sappington, 3d, of the Division of Trade Agreements.

preliminary conversations regarding which have been proceeding for some months in Lima.

With respect to the general provisions of a trade agreement with Peru, the Ambassador noted that he had received from the Peruvian Foreign Minister, just prior to his departure for the United States, an assurance that Peru would negotiate upon the basis of the unconditional most-favored-nation clause but that the Foreign Minister had indicated that he would desire to discuss the question of making certain exceptions to that clause in the case of trade between his country and Chile. The Ambassador felt that there were no other insurmountable obstacles to a trade agreement as concerns the general provisions.

With respect to possible concessions by both Governments, the Ambassador pointed out two developments which had not been previously reported, first, that the President of Peru had expressed a strong personal interest in "having something done" for Peruvian silver, specifically in the way of purchases of that commodity by the United States Government. The Ambassador was informed that this was a question which would have to be discussed with the Treasury Department. The second development concerned cotton, a trade agreement concession for which he believed the Peruvians would press most strongly, even possibly to the extent of making a concession on that commodity a *sine qua non* for an agreement. The Ambassador was informed that a further investigation would be made immediately into the possibility of providing a separate tariff classification for Peruvian cotton, although he was also reminded that this would involve the question of our trade relations and a possible trade agreement with Egypt.

With respect to other possible concessions to Peru in a trade agreement, of which sugar would probably be the most important, the Ambassador indicated with respect to this commodity that, while the Peruvians would probably appreciate anything which might be done to improve the quantitative or price position of Peruvian sugar in the United States market, he did not believe that a concession on this commodity is absolutely essential in a trade agreement.

In view of the relatively satisfactory position of United States trade in the Peruvian market at the present time, and in view of the absence of such factors as exchange control, quotas, et cetera, in Peru, it was agreed that it would be desirable to negotiate a trade agreement as soon as possible in order to assure the maintenance of these conditions. The principal question, therefore, concerned the timing of an agreement and it was suggested that perhaps the best period would be during the latter part of the autumn.

611.2331/110a

*The Secretary of State to the Chargé in Peru (Dreyfus)*

No. 164

WASHINGTON, September 7, 1938.

SIR: Reference is made to the question of a possible trade agreement with Peru, concerning which informal conversations have taken place in Lima over the past several months.

The Department has been informed by Ambassador Steinhardt of the statement by the Peruvian Foreign Minister that his Government had agreed to the negotiation of a trade agreement with the United States upon the basis of the unconditional most-favored-nation principle, but that his Government might wish to make certain exceptions to that principle in connection with trade with contiguous countries.

In this connection, the Department believes it highly desirable that you secure from the Foreign Minister at an early date, confirmation in writing of the understanding conveyed verbally to the Ambassador by Dr. Concha. To that end, there is enclosed a draft note which you are authorized to hand to the Foreign Minister.

You should transmit the Foreign Minister's reply to the Department promptly, and if, despite the Department's request in the attached note for precise information concerning the Peruvian Government's position in respect of trade with contiguous countries, reference in general or vague terms should be made in that reply to such exceptions as the Peruvian Government might wish to make, you should request the Foreign Minister for a further and more precise statement. The Department will instruct you further after it has had an opportunity to study the Foreign Minister's reply to your note.

There are also enclosed two copies of the "standard" general provisions, dated February 21, 1938,<sup>18</sup> developed for use in trade agreements,

<sup>18</sup> The standard general provisions of February 21, 1938, are the same as those in the reciprocal trade agreement between the United States and Ecuador, signed on August 6, 1938, and printed in Executive Agreement Series No. 133 and 53 Stat. 1951, except for the following omissions and changes:

Article VII. In the Ecuador agreement there is added to the end of the first sentence of the second paragraph: "or imposed in order to maintain the exchange value of the currency of the country."

Article VIII. This article was considerably changed in the Ecuador agreement and reads as follows in the provisions of February 21, 1938:

1. Neither the Government of the United States of America nor the Government of . . . . . shall regulate by import licenses or permits the importation into its territory of any article in which the other country has an interest, or by any method maintain limitation or control of the amount of importation of any such article, unless similar action is taken with respect to the importation of such article from all other countries.

2. If imports of such an article from the other country are, directly or indirectly, restricted by such regulation, limitation, or control, the Government taking such action shall establish in advance, and give public notice of, the total amount permitted to be imported from all countries during any specified period, which shall not be shorter than three months, and of any increase in such amount during the period, and shall either—

(a) Impose no limitation on the part of such total amount which may be imported from the other country; or



one copy of which should accompany your note to the Foreign Minister. The other copy is for the Embassy's files, and should replace the copy of the "standard" general provisions, dated April 20, 1937, which accompanied the Department's instruction no. 48 of December 31, 1937. Additional copies of the new text will be sent to you by steamer pouch.

(b) Establish in advance, and give public notice concerning, the quota of such article which shall be permitted to be imported from the other country during the specified period. Such quota shall be, as nearly as may be determined, equivalent to the proportion of the total importation in such period which the other country would supply in the absence of such regulation, limitation, or control.

In calculating such quota, account shall be taken of the proportion of the total importation of such article which the other country supplied during previous periods, of the trend of the trade in such article, and, in the case of a quota period shorter than a year, of seasonal variations, if any, in the trade. Where a quota for importation from the other country is established, no obstacle, administrative or otherwise, shall be placed in the way of importation sufficient to fill the quota allotted to the other country. If the total amount permitted entry from all countries is increased during any quota period, the quota established for the other country shall be increased proportionately.

3. If the Government of either country establishes or maintains such regulation, limitation, or control of the importation of an article in which the other country has an interest, it shall—

(a) Make public the regulations regarding the issuance of licenses or permits, or regarding any other method of limitation or control, before such regulations are put into force;

(b) Administer any system of licenses or permits or any other method of limitation or control so as not to discriminate against importation from the other country, and in no manner, directly or indirectly, influence importers regarding the country from which they shall seek permission to import any such article;

(c) Ensure that there shall be no undue delay in the issuance of licenses or permits;

(d) Ensure that any importer seeking to establish new, or to reestablish old, trade connections with the other country, or to maintain such trade connections, shall be given reasonable opportunity to import any such article; and upon request inform any such importer whose application is rejected of the reasons for such rejection;

(e) Give public notice of the amounts permitted to be imported from the several exporting countries, and at all times upon request advise the Government of the other country of the amount of any such article, the growth, produce or manufacture of each exporting country which has been imported, or for which licenses or permits for importation have been granted.

4. The provisions of this Article shall also be applicable with respect to any regulation, limitation, or control imposed by either Government upon the sale of any article in which the other country has an interest, or upon the importation of such article at a particular rate of duty or charge.

5. In the event that the Government of either country shall make representations concerning the application by the Government of the other country of the provisions of this Article, the Government of such other country shall give sympathetic consideration to such representations and if, within thirty days after the receipt of such representations, a satisfactory adjustment has not been made or an agreement has not been reached with respect thereto, the Government making them may, within fifteen days after the expiration of the aforesaid period of thirty days, terminate this Agreement in its entirety on thirty days' written notice.

Article IX. Paragraph 2 omitted from the Ecuador agreement reads as follows: "It is agreed that each Government, in the awarding of contracts for public works and generally in the purchase of supplies, shall not discriminate against the other country in favor of any third country."

Article XVI. There was omitted from the end of this article the following: "and it is agreed, further, that nothing in this Agreement shall be construed to prevent the adoption of enforcement of measures relating to neutrality."

Ambassador Steinhardt has reported to the Department that President Benavides has expressed a strong personal interest in securing benefits for his country's silver producers through purchases by the United States Treasury of Peruvian silver in the same manner that purchases have been made of Mexican silver. While this is a subject with which the Department is not directly concerned, the Department believes that it would be desirable, when a convenient opportunity arises, and preferably before the enclosed note is handed to the Foreign Minister, if you were to mention casually to President Benavides that the question of purchases of Peruvian silver, which he mentioned to Ambassador Steinhardt, has received some consideration in Washington and that the Treasury Department has indicated that if the Peruvian Government were to approach the United States Treasury Department through some qualified official of the Peruvian Government, that Department would be prepared to discuss the subject in detail and in the expectation of reaching a decision in the near future.

While the Department is aware that the questions of the proposed trade agreement and silver purchases may be closely linked in the mind of President Benavides, you should, if he should bring up the subject, make it perfectly clear to him that your Government considers the two questions entirely unrelated, and that under no circumstances could the duration of the proposed trade agreement be made conditional upon the extent or continuance of purchases of Peruvian silver by the United States Treasury Department, if such action were decided upon.

Very truly yours,

For the Secretary of State:

A. A. BERLE, JR.

[Enclosure]

*Draft of Note To Be Presented to the Peruvian Minister for  
Foreign Affairs*

EXCELLENCY: I have the honor to refer to conversations which have taken place during the course of the past several months between Your Excellency and Ambassador Steinhardt regarding the possibility of a reciprocal trade agreement between the United States and Peru, and to express the gratification of my Government upon learning through Ambassador Steinhardt of the willingness of Your Excellency's Government to negotiate such an agreement on the basis of the unconditional most-favored-nation principle.

It is the belief of my Government that it would be highly desirable at the present time to arrive at substantial agreement with Your Excellency's Government on all essential matters in connection with the general provisions of a trade agreement between the United States

and Peru, in order to insure in so far as possible that, once public announcement has been made of intention to negotiate such an agreement, (in accordance with established procedure in the United States), no major difficulties may arise to prevent the successful conclusion of the negotiations. My Government has instructed me, therefore, to present to Your Excellency the following comments on those general provisions which my Government believes it would be essential to include in an agreement, and to request Your Excellency's views thereon as soon as it may be convenient. In presenting these comments, my Government wishes to stress their confidential nature and to emphasize that even though agreement may be reached by our Governments at an early date on all important questions connected with the general provisions, it probably would not be possible for my Government to make any announcement of intention to negotiate a trade agreement with Your Excellency's Government, earlier than the beginning of November of this year.

With respect to the fundamental question of unconditional most-favored-nation treatment, my Government believes it essential that there be included in an agreement provisions whereby any advantage, favor, privilege or immunity granted by either Government to any article originating in or destined for any third country, would, with respect to customs duties or charges of any kind imposed on or in connection with importation or exportation, and with respect to the method of levying such duties or charges, and with respect to all rules and formalities in connection with importation or exportation, and with respect to all laws or regulations affecting the sale, taxation or use of imported goods within the country, be accorded immediately and unconditionally to the like article originating in or destined for the other country. In this connection, my Government recalls the statement which Your Excellency made to Ambassador Steinhardt immediately prior to his departure for the United States, to the effect that while Your Excellency's Government had agreed to the negotiation of a trade agreement with the United States on the basis of the unconditional most-favored-nation principle, the Government of Peru might wish to make certain exceptions to that principle in the case of trade with contiguous countries. My Government believes the possibility of later misunderstanding would be avoided were Your Excellency to indicate as precisely as possible the nature and extent of such exceptions as the Peruvian Government might wish to make. As Your Excellency is aware, however, my Government would only with extreme reluctance, in view of its established policy, consider agreeing to the inclusion in a trade agreement of exceptions to unconditional most-favored-nation treatment which were not of a generally recognized nature and of long standing. My Government, therefore,

believes it essential that full agreement be reached on this matter at an early date.

With respect to the question of quantitative controls of any kind which might be applied by either the Government of the United States or the Government of Peru, my Government would expect in a trade agreement the inclusion of provisions embodying the principle of non-discrimination outlined above in respect of customs duties and related matters. More specifically, if imports of any product into either country were to be restricted as to quantity, and if allocations by countries of export were to be made, my Government would expect that a share of the total permitted importations of the product would be granted to the other country on the basis of the proportion of the total importations of the product supplied by that country in a previous representative period.

Regarding exchange control measures which might be adopted by either Government, my Government would expect in the agreement provisions for the widest possible application of the most-favored-nation principle with respect to exchange allocations, exchange rates, and any restrictions, conditions, delays, taxes or surcharges which might be imposed upon the transfer of funds between the two countries.

The same non-discriminatory principle would be applied to foreign purchases by government monopolies and governmental purchases.

In regard to treatment to be accorded by each Government on the importation of those products on which concessions may be granted, my Government would expect to have included in an agreement provisions whereby such products would be exempt from ordinary customs duties in excess of those which might be specified in the agreement, and in addition that such articles would be exempt from all other duties, taxes, fees, charges or exactions which might be imposed on or in connection with importation, other or higher than those in force on the day of signature of an agreement, or imposed thereafter under laws in force on that day.

Further with respect to articles upon which concessions might be granted by either Government, my Government would expect the inclusion of provisions whereby such articles would generally be exempt from any quantitative restrictions upon their importation into the other country. The purpose of such provisions is, of course, to insure that concessions in respect of customs duties will not be impaired or nullified by quotas.

With regard to internal taxes, my Government would expect the inclusion of provisions whereby all articles imported from either country would, after importation into the other, be exempt from other or higher charges than those imposed on like articles of national or other foreign origin.

With respect to the textual form of the foregoing, I am enclosing for Your Excellency's consideration and comment a copy of draft general provisions which my Government has developed for use in trade agreements. In addition to the matters referred to above, Your Excellency will note that the enclosed draft provisions also cover a number of other matters, including those of a formal or technical nature, customarily included in trade agreements. I shall be most happy, of course, to convey to my Government any comments which Your Excellency may care to make with respect either to the bases outlined above or to the enclosed text.

While a study of the products entering into the trade between the United States and Peru is now in progress, no decision has been reached as yet as to concessions which might be granted to Peru in a trade agreement on products exported from Peru to the United States, or as to concessions which might be requested of Peru on products exported from the United States. In accordance with legal requirements and procedure followed in the United States no final decision can be reached in regard to concessions to be granted or concessions to be requested until public hearings have been held and the views of interested persons received. As Your Excellency is aware, the Government of the United States in negotiating trade agreements in general follows the rule of considering granting concessions on products of which the other country is the principal or an important supplier to the United States market, and, correspondingly, requests concessions on products of particular interest to the United States in its export trade with the other country. The Government of the United States would welcome and give careful consideration to any requests which the Government of Peru might desire to make concerning concessions on products exported from Peru to the United States and assumes that the Government of Peru would give similar consideration to any concessions requested by the Government of the United States.

Accept [etc.]

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611.2331/112

*The Chargé in Peru (Dreyfus) to the Secretary of State*

No. 654

LIMA, September 17, 1938.  
[Received September 27.]

SIR: With reference to the Department's strictly confidential instruction No. 164, of September 7, 1938, I have the honor to report that the note attached thereto was delivered to the Foreign Office on September 16th. There is enclosed a memorandum of the conversation which took place on that occasion.

Respectfully yours,

LOUIS G. DREYFUS, JR.

[Enclosure]

*Memorandum of Conversation, by the Third Secretary of Embassy in Peru (Cochran)*

LIMA, September 16, 1938.

Between: Dr. Carlos Concha, Minister of Foreign Affairs, Mr. Dreyfus, Mr. Cochran.

Dr. Concha read the note relative to the trade agreement which Mr. Dreyfus handed him, and said that, not having heard anything from us on this matter recently, he had assumed that we wanted to leave it until after the Pan American Conference;<sup>19</sup> but that the present was a propitious time to undertake negotiations, since the balance of trade was highly unfavorable to Peru, and the United States therefore would have to make greater concessions than Peru.

Mr. Dreyfus pointed out that the first step was to clarify the exception to the most-favored-nation clause. Dr. Concha, in his discussion of this point, mentioned only Chile; no other "contiguous country". He said that a Peruvian Commission was now in Santiago, negotiating a new commercial treaty; that Peru could not ratify a new treaty, as it had no Congress; and that the negotiators would probably simply continue the major portions of the old treaty in effect.

Mr. Dreyfus remarked that it was fortunate that the two matters (the treaty with Chile and the trade agreement with the United States) had come up simultaneously, since they could now be studied as a unit. Dr. Concha agreed.

Dr. Concha went on to say that Chile was putting a great deal of pressure on Peru; that she bought 120,000 tons of Peruvian sugar each year (against 50,000 by the United States) and that she had suggested some kind of clearing or compensation arrangement, Peru to buy from Chile one-seventh as much as she sold. Peru had rejected any such plan; but could not fail to take those 120,000 tons of sugar into consideration, since if Chile stopped buying them, it would mean a commercial and possibly a social crisis in Peru.

Dr. Concha declared that he personally favored Secretary Hull's policy of reciprocal treaties as against the system of special privileges, and that he would like to make the trade agreement with the United States the "axis" of Peru's entire commercial policy; that if Peru could be sure of being able to place 200,000 tons, or even 100,000 tons, of sugar in the United States each year, she would be relieved of her dependence on the Chilean market, and hence of the necessity of granting special concessions as exceptions to the most-favored-nation clause. He said that such an arrangement with the United States would

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<sup>19</sup> See pp. 1 ff.

“emancipate” Peru. On the other hand, if no such provision could be made for the disposal of Peru’s sugar, Peru would have to grant special favors to Chile to protect that outlet.

Mr. Dreyfus said that he felt sure the United States wanted to do everything it possibly could in this connection, but that the problem of sugar quotas was a very complicated one, that the solution hinged on the Sugar Law,<sup>20</sup> as the Minister knew, and that he wasn’t sure just how much could be done.

Dr. Concha said that there were certain concessions in the Chilean commercial treaty which Peru simply could not generalize, mentioning especially the free entry of wheat and coal. In concluding, he said that he would study the note and the draft general provisions; as well as the question of the nature and extent of the exceptions to the most-favored-nation clause which Peru will wish to request.

W[ILLIAM] P. C[OCHRAN, JR.]

611.2331/113

*The Chargé in Peru (Dreyfus) to the Secretary of State*

No. 667

LIMA, September 27, 1938.

[Received October 4.]

SIR: Referring to the Department’s instruction No. 164 of September 7, 1938 and the Embassy’s despatch No. 654 of September 17, 1938, concerning the possible trade agreement negotiations with Peru, I have the honor to report that, at the regular weekly audience with the Foreign Minister, after a few minutes of general conversation, much to my surprise Dr. Concha brought up the subject of the trade agreement with the United States showing that the Peruvian Government is interested in getting the negotiations under way.

Dr. Concha informed me that he was about to appoint a sub-committee to be selected from the Economic Advisory Committee of the Ministry of Finance to undertake the study of the trade agreement. He mentioned as possible appointees to this committee:

- Felix Remy, a graduate of Cornell University; mining engineer employed by the Fernandini mining enterprises;
- M. A. Olaechea, former President of the Central Reserve Bank of Peru; attorney of the National City Bank, and other American companies;
- Clemente Althaus, Manager of the Central Reserve Bank;
- Carlos Garcia Gastañeta, lawyer; one of the directors of W. R. Grace & Company of Lima; Peruvian delegate to the VIII Pan-American Conference;

<sup>20</sup>Approved September 1, 1937; 50 Stat. 903.

Jorge Chamot, former superintendent of customs; now Manager of the Lima Chamber of Commerce and Government Post Office Representative; delegate to the London Sugar Conference in 1926;

José F. Alemnara, Manager of the A. L. Bayly & Co. Soap Factory; connected with the National Industrial Society; and, possibly, the Minister of Finance himself.

Besides giving me the above information Dr. Concha went further and said he expected to be able to give me in the near future the reply to the request in the Embassy's note No. 219 of September 15, 1938<sup>21</sup> for a statement of the exceptions the Peruvian Government desires to make with regard to the most-favored-nation principle in the case of trade with contiguous countries.

The action of the Foreign Minister in volunteering this information and the rapidity with which the Foreign Office is acting upon the Embassy's requests lately has left me somewhat confounded. There is no doubt of a growing friendliness in Peru for the United States, which is exhibited in just such ways.

September 27th (evening).

Being with the Foreign Minister again this evening to deliver to him the message expressing appreciation for the cooperation of Peru in the European situation, contained in the Department's circular telegram of September 26th [27], 3 p. m.,<sup>22</sup> and fearing lest the appointment of this committee might be given publicity, I took advantage of the opportunity to call to his attention that part of the Embassy's note No. 219 of September 17 [15], 1938, referring to the confidential nature of the negotiations at this stage and the statement that "it probably would not be possible for my Government to make any announcement of intention to negotiate a trade agreement with Your Excellency's Government earlier than the beginning of November of this year."

Dr. Concha said I could rest assured on this point, as it had not been his intention to issue any public notice of the naming of the Committee. He added that the Foreign Office had insufficient personnel to study commercial treaties, and therefore each time one was under consideration it was necessary to appoint a sub-committee of the Advisory Economic Committee of the Ministry of Finance, as was done at the time of the British Commercial Treaty. He repeated his assurance that there was nothing to fear as to the guarding of the confidential nature of the discussions, for the committees were accustomed to dealing with confidential questions.

<sup>21</sup> See draft of note to be presented to the Peruvian Minister for Foreign Affairs, p. 848.

<sup>22</sup> Vol. I, p. 677; see also Department of State, *Press Releases*, October 1, 1938, p. 223.



Adverting, then, to the matter of exceptions to the most-favored-nation clause, I called the Minister's attention to the sentence of the note, stating our reluctance to agree to such exceptions unless they were "generally recognized and of long standing." There was some discussion of this point. The Minister, under the impression that we would wish to limit the exceptions to Chile, remarked that the treaty with Bolivia dated from 1904 [1905];<sup>23</sup> but said that he did not know whether or not they would wish exceptions for Bolivia as well as for Chile, since that would depend on the studies and recommendations of the Committee he would appoint.

The Minister further remarked that Peru's balance of trade with Bolivia was highly favorable to Peru, which would consequently have to try to take more from Bolivia; but that Bolivia could send Peru nothing would [*that?*] would compete with American trade. On the other hand, he said, Chilean economy was more competitive with that of the United States, since industrialization was well advanced there. He hoped there would be no difficulty over these two countries, since the Ambassador had told him that he felt sure there would be no insuperable objection to special exceptions in favor of "contiguous countries".

I told the Minister that we believed in the unconditional most-favored-nation principle in its widest application and would want the exceptions thereto, to which we might agree, to be limited to the smallest possible field; and that it was this desire which led us to suggest a delimitation of these exceptions as clearly as possible before any announcement were made.

As I mentioned above, I have been more than surprised at the speed with which the situation is developing.

Respectfully yours,

LOUIS G. DREYFUS, JR.

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611.2331/115

*The Chargé in Peru (Dreyfus) to the Secretary of State*

No. 712

LIMA, October 22, 1938.

[Received October 29.]

SIR: I have the honor to inform the Department that the Minister of Foreign Affairs apologized to me on Thursday for the long delay which has occurred in replying to the Embassy's note No. 219 of September 15, 1938,<sup>24</sup> requesting a statement concerning the nature and extent of the exceptions which his Government may wish to make with regard to trade with contiguous countries, in connection with

<sup>23</sup> November 27, 1905, *British and Foreign State Papers*, vol. c, p. 805.

<sup>24</sup> See draft of note to be presented to the Peruvian Minister for Foreign Affairs, p. 848.

the negotiation of the trade agreement with the United States. Dr. Concha promised to let me have this reply by the end of this week.

Dr. Concha informed me that he had gone over the matter with his advisory committee and that the decision had been reached to request that trade with all countries contiguous to Peru should be excepted from the operation of the most-favored-nation clause. I reminded him that it was the established policy of the American Government to include in a trade agreement only such exceptions to unconditional most-favored-nation treatment as are of a generally recognized nature and long standing. The Minister then naively explained that it was his policy to ask for the maximum concessions even if it should develop later that they could not be obtained. This attitude on the part of the Foreign Minister may well be worth remembering in any future negotiations with him.

In view of Dr. Concha's position, and to avoid any misunderstanding of the attitude I had taken, I decided to send him at once the informal memorandum, dated October 21st, which Mr. Cochran helped me to prepare and of which a copy is enclosed.

In our conversation, Dr. Concha explained to me that, largely to protect himself, he had appointed the consultative committee, which will pass upon all questions arising in connection with the trade agreement negotiations. He stated that the committee was a safeguard and a buffer, as otherwise he might be accused of favoring special interests. For example, if some concession were secured for Peruvian sugar, it might be alleged that he had succumbed to influence by the wealthy sugar producers.

Respectfully yours,

LOUIS G. DREYFUS, JR.

[Enclosure]

*The American Chargé (Dreyfus) to the Peruvian Minister for Foreign Affairs (Concha)*

No. 232

LIMA, October 21, 1938.

MY DEAR MR. MINISTER: I have been thinking over our conversation of yesterday evening, with special reference to the trade agreement negotiations. As I remember it, you indicated that your Advisory Committee felt that Peru should ask that trade with all the contiguous countries should be excepted from the operation of the most-favored-nation clause.

The trade agreements program of the United States has for its sole object the increase of world trade. This involves the reduction of tariff barriers to commercial interchange, and the amelioration or abolition of exchange, quota and other restrictions thereon. The United States believes that the most practicable—indeed, the only

satisfactory—method of obtaining this increase of trade, both bilaterally and multilaterally, is through the unrestricted and unconditional application of the most-favored-nation principle.

It is noted that every country in South America except Argentina, Paraguay, Uruguay and Venezuela, is “contiguous” to Peru. It is also believed that Peru has never conceded special customs treatment to any “contiguous” country other than Chile (except for frontier traffic). If Peru were to request that its trade with all the neighboring countries should be excepted from the operation of the most-favored-nation principle, the result would be to *increase* the restrictions on world trade, and the discriminations against American commerce in particular, rather than to reduce them; and the result would be to defeat the primary, basic purposes of the trade agreements program.

May I invite your attention to that portion of my note dated September 16 [15], 1938, where the Department of State indicates that the United States can agree to *any* exception to the most-favored-nation clause only with the greatest reluctance; and that it feels such action could only be justified in the case of special, preferential treatment which was “of a generally recognized nature and of long standing”?\* Mr. Cochran informs me that as far as he knows, the only occasion on which the United States has agreed to any exception whatsoever to the most-favored-nation clause was in the case of the trade agreement with Czechoslovakia.<sup>25</sup> This country forms part of the Danube basin, which has been an economic unit for many centuries; and the United States recognized that Czechoslovakia could not divorce itself from the mutual inter-dependence of the portions of the old Austro-Hungarian Empire which had long conceded special, privileged treatment to each other. Even in acceding to the Czechoslovak request that her inter-Danubian trade be excepted from the operation of the most-favored-nation clause, however, the United States placed definite limitations on the type and amount of preference granted.

Thus, while I shall of course be glad to transmit to the Department of State any observations or requests which the Government of Peru may wish to make relative to exceptions to the most-favored-nation clause, I feel sure that I correctly interpret the position of my Government when I state that it will agree to *any* exception to the unrestricted and unconditional application of this principle only with extreme reluctance; that it will feel such a course warranted only

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\*An example of preference “generally recognized and of long standing” would be the commercial relations between Cuba and the United States, which have granted each other special treatment from the time of Cuban independence. [Footnote in the original.]

<sup>25</sup> Signed March 7, 1938, Executive Agreement Series No. 147, or 53 Stat. 2293; see also *Foreign Relations*, 1938, vol. II, pp. 223 ff.

where preference has long been granted; that it will wish the preferences limited to articles which are now the subject of special concessions; that is, to a restricted list of articles; and that it will wish the preferences to be definitely specified and limited, both in kind and amount.

With assurances [etc.]

LOUIS G. DREYFUS, JR.

611.2331/114: Telegram

*The Chargé in Peru (Dreyfus) to the Secretary of State*

LIMA, October 24, 1938—11 a. m.

[Received 2 p. m.]

70. Referring to Department's instruction No. 164, of September 7 concerning the proposed trade agreement.

The Foreign Office has replied to the Embassy's note, proposing that the exception to the most-favored-nation clause read as follows:

"The advantages already accorded or which in the future may be accorded by the Republic of Peru to contiguous countries shall be excepted from the operation of this convention".

In support of this position Peru alleges that neighboring countries are united by special ties, citing our special treatment of Cuba<sup>26</sup> and our approval of Central American preferences in the Costa Rican agreement.<sup>27</sup> The note also mentions the unfavorable trade balances of Bolivia and Chile with Peru and their insistence on receiving advantages tending to equalize the interchange, and remarks that to concede special treatment to these two and not to other bordering countries would create jealousy and perhaps have undesirable political repercussions. The Colombian treaty<sup>28</sup> covering what is really only frontier traffic in the Amazon basin is also cited.

As reported in my despatch No. 712, of October 22, already en route to the Department by airmail, the Foreign Minister a few days ago gave me an indication of the probable nature of this reply. When I expressed my disappointment at the wide scope of the proposed exception, he said naively that he believed in asking for the maximum and receding as necessary.

Note with translation and comment will be forwarded by the next airmail.

DREYFUS

<sup>26</sup> Reciprocal trade agreement signed August 24, 1934, Executive Agreement Series No. 67, or 49 Stat. 3559; see also *Foreign Relations*, 1934, vol. v., pp. 108 ff.

<sup>27</sup> Signed November 28, 1936, Executive Agreement Series No. 102, or 50 Stat. 1582; see also *Foreign Relations*, 1936, vol. v, pp. 373 ff.

<sup>28</sup> May 10, 1938, Peru, *Memoria del Ministro de Relaciones Exteriores, 20 de Noviembre de 1937 a 20 de Abril de 1939* (Lima, 1939), p. 113.

611.2331/116

*The Chargé in Peru (Dreyfus) to the Secretary of State*

No. 714

LIMA, October 25, 1938.  
[Received November 2.]

SIR: I have the honor to refer to my telegram No. 70, of October 24, 11 a. m., and to enclose the text and an informal translation of the note from the Peruvian Foreign Office in reply to the note enclosed with the Department's instruction No. 164 of September 7, 1938.

The Peruvian reply asks that any special privilege which Peru now grants or may in the future concede to any contiguous country be excepted from the operation of the most-favored-nation principle. The Foreign Minister had already indicated to me informally that the reply to our request (that Peru specify the exact nature of the exception she wished included) would be of this wide, general nature. (Despatch No. 712 of October 22, 1938.)

In support of its position, the Peruvian Government cites the commercial relations between Cuba and the United States as an example of the peculiarly close ties which bind neighboring countries. Apart from the fact that Cuba and the United States are not, strictly speaking, contiguous, it might be pointed out to Peru that this special relationship has existed for many years, dating from the time of Cuban independence, and is "generally recognized and of long standing"; whereas Peru, up to the present, has granted preferential treatment only to Chile (and Great Britain), and even the Chilean arrangement is of comparatively recent origin.

It might also be pointed out that, on the contrary, the United States does *not* ask that its commercial concessions to its two actual territorial neighbors—Canada and Mexico—with one of whom it has a trade agreement in force, be excepted from the operation of the most-favored-nation principle.

The citation of our recognition of preferential arrangements between the countries of Central America would appear much more pertinent to the Peruvian case; although the Honduran-Salvadoran free trade treaty<sup>29</sup> provided a situation which might be held to be "generally recognized and of long standing".

In discussing Peru's trade relations with Chile and Bolivia, the note leans heavily on the argument for bilateral trade balancing. Peru again states that she sells much more to these two countries than she buys from them; and apparently recognizes as valid their claim that this situation must be remedied through increased Peruvian purchases of their products. The contention that these two countries are important markets for Peruvian exports, especially sugar, is warranted.

<sup>29</sup> Signed February 28, 1918, *British and Foreign State Papers*, vol. cxi, p. 750.

Attention is invited to the statement that Bolivia and Peru are about to sign a new commercial treaty, to replace the convention of 1905.<sup>30</sup> The latter treaty did not concede preferential status to Bolivian exports; and the reference to it would hardly establish that the granting of special treatment to Bolivia is "generally recognized and of long standing".

It is felt that the reference to the recent treaty with Colombia,<sup>31</sup> providing special treatment for commerce in the Amazon basin, is hardly to the point. The United States has a trade agreement with Colombia,<sup>32</sup> and has obviously felt that the concessions granted in the Colombian-Peruvian treaty were concerned with frontier traffic and thus exempt from generalization under the most-favored-nation clause of the trade agreement. The proposed (standard) general provisions of the trade agreement with Peru, already submitted to that country for study, make the usual provision for cases of this character. It might be wise, however, for the Department to emphasize this point in its reply to the Peruvian note.

In passing, it may be mentioned that the United States already has in force with three of the countries bordering Peru (Brazil,<sup>33</sup> Colombia and Ecuador<sup>34</sup>) trade agreements containing the most-favored-nation clause. These three countries would thereby be prevented from joining any general scheme of preferences to neighboring nations, such as the Peruvian note would seem to contemplate; for the most-favored-nation provisions of the trade agreements would prevent their granting special privileges to Peru in return for those Peru apparently hopes to be able to grant them. In consequence, Peru's suggested regime could only be unilateral in its preferential aspects.

Furthermore, since these three countries voluntarily assumed the obligations of most-favored-nation treatment with the United States, the contention that Peru could hardly grant preferential treatment to some of her neighbors and not to others, lest undesirable political distrust be created, would appear to have but limited validity.

In view of the Foreign Minister's statement to me (despatch No. 712 of October 22, 1938) that he believed in asking for the maximum and receding as necessary, it is not believed that Peru has decided to adopt, as a general policy, preferential customs treatment for all her geographical neighbors. The decision to make the enclosed reply to the United States was not the result of a wide policy study by the entire

<sup>30</sup> *British and Foreign State Papers*, vol. c, p. 805.

<sup>31</sup> Peru, *Memoria* (Lima, 1939), p. 113.

<sup>32</sup> Signed September 13, 1935, Executive Agreement Series No. 89, or 49 Stat. 3875; see also *Foreign Relations*, 1935, vol. iv, pp. 430 ff.

<sup>33</sup> Signed February 2, 1935, Executive Agreement Series No. 82, or 49 Stat. 3808; see also *Foreign Relations*, 1935, vol. iv, pp. 300 ff.

<sup>34</sup> Signed August 6, 1938, Executive Agreement Series No. 133, or 53 Stat. 1951; see also pp. 509 ff.

Advisory Economic Committee, but was made by a sub-committee appointed especially to study the trade agreement with the United States. It is therefore considered probable that Peru will be willing to discuss all phases of the basic problem involved.

Adverting once more to my despatch No. 712 of October 22, 1938, the Department is informed that the memorandum attached thereto was delivered to the Foreign Office late in the afternoon of October 21st. It will be noted that the enclosed Foreign Office note is also dated October 21st. Nevertheless, it may be worth noting that it was delivered in a most unusual manner, being brought to my home by a messenger at 8 p. m., Saturday evening, October 22nd, instead of being taken to the Embassy during office hours, as is customary. It has occurred to me that the Foreign Office, upon receiving my memorandum, decided to give its reply the appearance of having been prepared before receipt of the memorandum, and that it was therefore pre-dated and rushed to completion. In any case, the Embassy was unsuccessful in its attempt to forestall this apparently unfavorable reply to its request for a specific indication of the nature of the exceptions Peru wished to make to the most-favored-nation clause.

Respectfully yours,

LOUIS G. DREYFUS, JR.

[Enclosure—Translation]

*The Peruvian Minister for Foreign Affairs (Concha) to the American Chargé (Dreyfus)*

No. 6-3/89

LIMA, October 21, 1938.

MR. CHARGÉ D'AFFAIRES: I acknowledge the receipt of your note No. 219 of September 15, 1938, in which you inform me of the desire of the Secretary of State that the Government of Peru state clearly the terms of the exception which it expects to secure under the most-favored-nation treatment, which would regulate the commercial relations between Peru and the United States in case a Commercial Convention were agreed upon with the Government which you represent.

According to said suggestion, I have the honor to inform you that my Government understands that that exception should include all of the States bordering on Peru, and making the matter still more concrete, that it could be expressed in the following terms:

"The advantages already accorded or which may be accorded in the future by the Republic of Peru to contiguous countries shall be excepted from the effects of this Convention".

The reasons on which the Peruvian Government bases its position, briefly stated, are as follows:

It is of course natural that all countries should try to establish special commercial relations with those countries that are neighbors

along their borders and which, for that reason, are bound to them by political and every other kind of ties,—ties different from those that bind them to countries more distant from the geographical standpoint. The United States Government itself in refusing to grant to third States the advantages which it is accustomed to grant to Cuba, recognizes the evident force of this principle. In reviewing the Treaty of Commerce celebrated between your Government and Costa Rica, I note also that the United States has agreed to make exceptions concerning the advantages that Costa Rica has offered or might offer in the future to other Central American Republics, thus respecting the same criterion which I have mentioned.

Now then, if upon leaving aside considerations of a general character we come to study concrete cases, such as that suggested by our commercial traffic with Chile, we shall note that that country is an important buyer of Peruvian products, that its commercial balance with Peru is highly unfavorable to the point where it is difficult for Chile to obtain exchange in order to pay for its imports originating in Peru, and that there is a strong interest on the part of Peruvian producers not to lose the Chilean market which is essential for the maintenance and development of some of our industries, such as sugar.

Something similar occurs with Bolivia. Here, too, the commercial balance shows that Peruvian exports to Bolivia are enormously superior to Bolivian exports to Peru.

In view of these circumstances, it is easy to understand that the commercial relations, based on an accentuated unbalanced condition, do not favor the development of the mutually friendly and understanding spirit which Peru wishes to cultivate with her neighbors. Chile constantly demands that our importers acquire larger quantities of Chilean manufactured articles as compared with the amount that is being imported to date, and Bolivia, which is on the eve of concluding a Commercial Treaty with Peru, to replace the one in force signed in 1905, has presented the same demand, threatening us with supplying its needs for products similar to ours from other countries.

I must also call your attention to the special case of Colombia. Recently, Peru signed a Convention of Customs Cooperation with that Republic for the purpose of unifying the tariffs and establishing a special commercial regime in the Amazon and Putumayo River basins, said Convention being a development of the Protocol of Friendship and Cooperation signed on May 25 [24], 1934,<sup>35</sup> in the City of Rio de Janeiro, by the two States. It seems to be useless to state that, due to its nature, said pact contains stipulations which ought not to be and cannot be extended to a third country.

<sup>35</sup> League of Nations Treaty Series, vol. CLXIV, p. 31.



We do not have as yet commercial agreements binding us contractually with Brazil and Ecuador, but the Government of Peru contemplates negotiating them at an early future as a means to bring more closely together the bonds which unite us to those two bordering Nations, bound to Peru by special ties. On the other hand, you will doubtless not fail to understand that a regime of commercial facilities recognized in favor of determined bordering States must necessarily be granted to the other countries that find themselves in equality of geographical conditions, subject to creating distrust which, politically speaking, it is desirable to make efforts to avoid.

Resuming what has gone before, I have the honor to advise you that the Government of Peru would be disposed to negotiate a Treaty of Commerce with the United States Government on the basis of the unconditional and unlimited most-favored-nation clause with the express exception of the contiguous countries, viz: Bolivia, Brazil, Colombia, Chile and Ecuador, which in their commercial relations with Peru would enjoy special treatment which would not be granted to a third State.

I have [etc.]

CARLOS CONCHA

611.2331/114: Telegram

*The Secretary of State to the Chargé in Peru (Dreyfus)*

WASHINGTON, November 1, 1938—7 p. m.

45. Your 70, October 24, 11 a. m. Despite your penultimate sentence, the Department is naturally disappointed that Concha appears to have considerably exceeded his original position regarding exceptions. Particularly because of the danger of establishing a precedent which would seriously weaken our position in dealing with other countries, notably Argentina, Uruguay and Chile, Concha's proposal is unacceptable. Also involved are our existing agreements with Brazil, Colombia and Ecuador, all contiguous with Peru, to which countries requests for similar treatment could not consistently be refused were we to except Peruvian trade with all contiguous countries.

Your despatch 712, October 22. The Department approves in general your informal memorandum to Concha. You should inform him in addition that your Government would not be willing to except any advantages other than those to facilitate small frontier traffic with contiguous countries and those presently accorded to Chile in respect of certain articles, and that even in regard to the latter we would probably wish to request modifications or assurances in the case of articles of interest to us.

You should further inform Concha that the position of your Government regarding most-favored-nation treatment as expressed in

your note of September 15 and herein is not a bargaining position taken with the idea of possibly receding therefrom during the conversations looking toward the establishment of a basis for negotiations.

HULL

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611.2331/118

*The Ambassador in Peru (Steinhardt) to the Secretary of State*

No. 737

LIMA, November 5, 1938.

[Received November 15.]

SIR: I have the honor to refer to the Embassy's despatch No. 714 of October 25, 1938, and to report that in the course of a conversation with Dr. Concha yesterday afternoon at the Foreign Office, we discussed the present status of the negotiations looking towards a trade agreement between the United States and Peru.

I reminded Dr. Concha that in our last talk on the subject—prior to my departure on leave of absence—he had, at least in his informal discussions with me, virtually abandoned his request for exceptions to the unconditional most-favored-nation clause in favor of all of the countries contiguous to Peru, with the exception of Chile, and teased him about “backsliding” during my absence. His reply was a grin and the observation that the Department's apparent unwillingness to grant him a general exception, both as to the present and future in the case of Chile, was causing him the utmost concern. He pointed out that Chile was buying seven times as much from Peru as Peru buys from Chile and said that the entire Peruvian sugar industry would be thrown into a state of chaos were Chilean purchases of Peruvian sugar to be discontinued or materially reduced, with disastrous consequences to the extensive employment in the sugar growing districts.

Dr. Concha said that the Peruvian-Chilean commercial agreement had recently expired and had been extended for a period of six months, but that he had been advised that during the period of extension, the Chilean Government intended to make demands for additional concessions from Peru in connection with any renewal of the agreement, and that as Chile was now beginning to fancy itself as an industrial nation, he had no idea as to what the nature of these demands would be. He said that the Chilean Government, recognizing the strength of its position, was constantly threatening him with an abrogation of the existing commercial agreement, and that he was seriously concerned with this threat, particularly as regards sugar.

Dr. Concha observed that if in addition to the existing sugar quota the United States were to admit another one hundred thousand tons of Peruvian sugar, he would not care what position the Chileans took and would be prepared to recede from his request for an exception to the unconditional most-favored-nation clause in the case of Chile.

He added that he recognized the virtual impossibility of any substantial increase in the present sugar quota granted by the United States and that in consequence he must protect his Chilean sugar market.

I then asked him why he could not give me a memorandum of the exceptions which he would desire in the case of Chile and include sugar, to which he replied that he would be glad to do so if he only knew what the Chilean demands were to be from time to time; but that as Chile—as part of its threat—had been keeping the Peruvian-Chilean commercial relations on a year-to-year basis, and had now reduced this basis to six months, it was impossible for him to anticipate the demands which would be made by Chile from time to time for concessions by Peru in consideration of the continued acceptance of Peruvian sugar.

Dr. Concha's argument was rather convincing and I am satisfied was wholly sincere. He summarized his position by saying that if he did not keep his hands free in dealing with Chile, the consequences to Peru of an abrogation of the Chilean treaty would unquestionably be more immediately disastrous than any benefits he could hope to achieve from a trade agreement with the United States.

He then asked me why the Department should be so insistent on limiting the exceptions to be granted Chile, pointing out that Chilean industrial products were, to use his expression, "mostly junk" and in no sense competitive with American products on either a basis of quality or price. He insisted that a general exception in the case of Chile would not have the slightest effect on American exports to Peru. Bearing in mind the Peruvian preference for American products, and after an examination of Peruvian imports of Chilean origin, I am inclined to agree with this contention. In reply to his question, I told him that in my opinion the Department's position was based on principle rather than on fear of Chilean competition, and pointed out to him that as the result of the large number of trade agreements already negotiated by the United States, certain set principles and policies had been established from which the Department could not deviate, excepting to a limited extent in the face of the most urgent considerations.

At this stage of the discussion I became convinced that Dr. Concha was prepared to surrender his request for exceptions in the cases of Bolivia, Brazil, Colombia and Ecuador—subject only to the customary provision concerning limited frontier traffic—but that he was not prepared to recede from his insistence on a general exception in the case of Chile, and that his reasons in the case of Chile are of such force that he would be most insistent upon their being given the most serious consideration.

Dr. Concha then asked me whether it was my intention to reply to his note of October 21, 1938, so that he could lay my reply before his advisory committee. To this I observed that there did not seem to be any advantage in my making a reply to his note, to which he in turn would have to reply, until we had come to some kind of an understanding as to the nature of my reply and the nature of his response thereto. I pointed out to him that an exchange of informal memoranda, with the inevitable delays attendant thereon, would merely prolong our efforts to dispose of a preliminary question, and suggested that a further conference might be desirable with the object of seeing whether we could not come to some understanding before any further memoranda are exchanged. Dr. Concha readily acquiesced in my suggestion and November 8th has been fixed for a continuation of our discussion.

In proposing a continuation of our informal talk, it was and is my hope, but not expectation, that Dr. Concha may, on Tuesday, give some evidence of weakening—at least to some extent—from his position in insisting upon a general exception in the case of Chile. I thought it best to give him an opportunity to discuss the matter with the commercial division of the Foreign Office and with the members of his advisory committee before permitting him to commit himself to a written memorandum from which it might be more difficult to persuade him to recede at a later date. It seemed to me,—both in the interests of expedition and with due regard to the Peruvian characteristic to most reluctantly withdraw from anything in writing, occasioned by pride of authorship—that it might be preferable to make a further effort next Tuesday to convince him that specific limited exceptions in the case of Chile would afford him sufficient elbow room within which to meet even unpredictable Chilean demands.

I also pointed out to Dr. Concha that the Department was most unwilling to establish precedents which might affect its negotiations in dealing with other countries, particularly in South America, and that the exceptions which he was asking for had been denied Brazil, Colombia and Ecuador under the existing trade agreements with them.

I think I made it abundantly clear to the Minister that the Department's position regarding most-favored-nation treatment was not and is not being advanced as a bargaining position, but has for its foundation the principles and policies on which the entire trade agreements program of the United States rests.

Dr. Concha assured me that he quite understood and appreciated this position by the Department and reiterated that he would gladly withdraw his request—even in the case of Chile—were it not for the

fact that Chile—as he laughingly put it, “could and would blackmail us”.

I shall report to the Department immediately after my further conference with Dr. Concha on Tuesday and assume I will then receive further instructions as to the position the Department desires to take in connection with general or limited specific exceptions in the case of Chile.

Respectfully yours,

LAURENCE A. STEINHARDT

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611.2331/116 : Telegram

*The Secretary of State to the Chargé in Peru (Dreyfus)*

WASHINGTON, November 8, 1938—5 p. m.

46. Your despatch 714, October 25. Supplementing the information already supplied Concha, you should, regarding our attitude toward preferential customs regimes in Central America, refer him to the fact that your Government has as a practice of long standing endeavored in view of the historical precedents involved, to place no obstacle in the way of the fulfilment of any desire that might exist in Central America for closer association between the several states, including the development of closer economic relations through customs preferences; that your Government did not protest the provisions of a Central American convention of 1906<sup>36</sup> providing for a considerable degree of preferential customs treatment between several of those states; and that your Government in 1923 took no exception to customs preferences<sup>37</sup> in that area.

Regarding the reference in Concha's note to trade balances with Bolivia and Chile, you should of course resist this argument strongly, citing your Government's well known position on this question.

A formal reply to Concha's note is being prepared, but to expedite the conversations, you should indicate to him the nature of the reply to be expected, on the basis of the statements made in your note of September 15, your memorandum of October 21, the Department's telegram No. 45 of November 1 and herein.

HULL

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<sup>36</sup> Article 9 of General Treaty of Peace and Amity, signed September 25, 1906, *Foreign Relations*, 1906, vol. 1, p. 857.

<sup>37</sup> See Convention for the Establishment of Free Trade, signed February 7, 1923, *Conference on Central American Affairs, Washington, December 4, 1922-February 7, 1923* (Washington, Government Printing Office, 1923), p. 388.

611.2331/119

*The Ambassador in Peru (Steinhardt) to the Secretary of State*

No. 741

LIMA, November 9, 1938.  
[Received November 15.]

SIR: I have the honor to refer to my despatch No. 737 of November 5, 1938, and to report that my appointment with Dr. Concha having been postponed by him from yesterday afternoon until this morning, I was in receipt of the Department's telegraphic instruction No. 46 of November 8, 5 p. m. before our conference took place.

At the outset Dr. Concha reiterated and emphasized that it was essential for him to obtain a general exception—present and future—from the operation of the unconditional most-favored-nation clause in the case of Chile in order that he would be in a position to meet such demands as the Chilean Government might make of him in the future. He stressed the unusual relations between Peru and Chile and said that anyone who had studied the history of the Chilean-Peruvian war<sup>38</sup> was well aware of the fact that it had been brought about by commercial reasons. He also referred to his pending negotiations with Bolivia and the unusual status of the relations between Peru and Bolivia.

From Dr. Concha's general comments I judged that he had—at least in his own mind—abandoned his hope of obtaining exceptions in favor of Brazil, Colombia and Ecuador, subject only to the customary provision concerning limited frontier traffic. Thereafter, in the course of a discussion which lasted for over an hour, Dr. Concha made no further reference to Bolivia, from which I judge that he will not be too insistent on an exception in the case of that country, although it is still entirely possible that he may request specific limited exceptions in the case of Bolivia.

As to Chile, he again adverted to the necessity of his making almost any concessions that that country might demand, in order to preserve the Chilean market for Peruvian sugar. I again pressed him to suggest specific limited exceptions in the case of Chile so that I might communicate the same to the Department for a prompt reply, in the hope of expediting the negotiations.

As I am reasonably certain that Dr. Concha would prefer to have the negotiations with the United States either definitely concluded or broken off before he must face his new negotiations with Chile, and as these negotiations—judging by the procedure adopted during the past two years—will have to be undertaken within the next three or

<sup>38</sup> For references to correspondence in *Foreign Relations* volumes for the years 1879, 1880, 1881, 1882, and 1883 regarding this war, see *General Index to the Published Volumes of the Diplomatic Correspondence and Foreign Relations of the United States, 1861-1899* (Washington, Government Printing Office, 1902), heading: "War of Chile against Bolivia and Peru," pp. 882 ff.

four months, I referred at this stage of the discussion to the requisite period of time which must elapse in Washington after the first notice of intention to negotiate is publicly made, pointing out to him that the period would consume approximately three months, and stressing the desirability of putting the Department in a position, as soon as possible, to give the first notice of intention to negotiate.

Dr. Concha asked me whether it was my understanding that this notice would probably be given after the question of the exceptions to the unconditional most-favored-nation clause had been agreed upon, and I told him that that was my understanding, subject, of course, to other considerations in the Department with which I might not be familiar; but that I was reasonably satisfied that once the exceptions were agreed upon, the Department contemplated giving immediate consideration to the publication of the first notice of intention to negotiate. This aspect of the matter appeared to have an effect upon Dr. Concha, for his insistence on a general exception in the case of Chile became noticeably weaker thereafter.

His first objection to limited specific exceptions was that the list would be interminably long, because—as he put it—the Chileans would want favored treatment on a large number of items in respect of which their exports to Peru were inconsequential but as to which they appear to have hopes of expanding their exports to Peru in the remote future. I suggested to him that perhaps various of these items could be lumped so that the list would not have to be so long. Dr. Concha's reply to this thought was to disclose five of the products which he apparently will desire excepted, to-wit: wheat, coal, fruit, canned goods and manufactured products.

As to wheat he called my attention to the quota of 40,000 tons at present granted Chile free of duty and asked me to speculate as to what the Department's position would be regarding such an exception in favor of wheat. I told him that without the slightest knowledge of the Department's attitude were he to ask for an exception of 25,000 tons duty free, I would recommend to the Department that the United States ask for a similar quota, duty free,—Chile and the United States, after filling their respective quotas, to be on the basis of equal treatment in respect of further imports. I also called his attention to the fact that Chile had not exported a single ton of wheat to Peru last year.

Dr. Concha seemed to be somewhat taken aback by my thought and wanted to know how he was to continue to sell sugar to Chile if he could not offer the Chileans the slightest advantage for their wheat as against the United States in the Peruvian market. This exchange disclosed to me that what Dr. Concha had in mind principally was sufficient exceptions to compel Chile to continue to purchase at least 100,000 tons of Peruvian sugar. I then pointed out to him

that he was perhaps unduly concerned as to the possibility of a discontinuance by Chile of the purchase of Peruvian sugar in as much as the total world marketable supply of sugar was fixed by the Council in London, and if Chile were to purchase the 100,000 tons elsewhere, the Peruvian supply would undoubtedly fill the gap occasioned by such purchases.

I then told Dr. Concha that if he were to abandon his request for a general exception in the case of Chile and ask for a specific limited exception of 25,000 tons of wheat, and ask for no other exceptions, I would communicate his request to the Department telegraphically and ask for a telegraphic reply. This terminated the discussion with respect to wheat.

Dr. Concha then mentioned coal, canned goods, fruit and manufactured articles without, however, elaborating on any of these products.

He then referred to his advisory committee and said that he would have to take the subject up with them, and that perhaps it would be better for him to discuss the subject first with Dr. Lavalle (a member of the committee) who has been the chief negotiator of the Chilean-Peruvian agreements. He again suggested that I send him a most informal memorandum, to which I replied that I did not feel qualified to give him even the most informal memorandum without submitting the same first to the Department for its approval, and that this meant a delay of several weeks. I sensed that the threatened delay would not appeal to Dr. Concha—which was apparently justified—as he replied that it was perhaps just as well not to have any further exchange of memoranda until the possibility of an agreement in the matter of exceptions had first been further explored.

The discussion came to a close with a promise by Dr. Concha to discuss the matter with Dr. Lavalle, thereafter with the advisory committee and to confer with me further within a week.

It is my opinion that Dr. Concha intends to recommend to the advisory committee that his request for general exceptions be abandoned, and that he content himself with an exception in favor of limited frontier traffic in the case of Bolivia, Brazil, Colombia and Ecuador, and limited exceptions in the case of Chile, such exceptions, however, to be very considerable in scope and quantity.

I am not at all sanguine, however, as to the reaction of the committee. The members are men of such standing in the community that they cannot be regarded as rubber stamps for Dr. Concha. I have believed, ever since I first heard of the creation of this committee, that it would prove our principal stumbling block. I fear that the committee may insist upon broader exceptions than the Department may be prepared to grant.



I am already entertaining suspicions that one or more members of the advisory committee are opposed to any commercial agreement between Peru and the United States. The ramifications of the personal interests of several of these gentlemen would doubtless support my suspicions if they could be fully ascertained. Even assuming that selfish, personal interests may not be motives, there are foreign interests shrewdly represented in Lima who of late have been evidencing great alarm at the prospects of a trade agreement between the United States and Peru and who are not above "employing" one or more members of the advisory committee in an endeavor to sabotage the contemplated agreement. One or two members of the committee have not been any too friendly to the United States in the past, and one of them in particular—the Department will recall—was under my suspicion in connection with the withholding of a license to the Associated Press.

In questioning Dr. Concha as to his reason for having constituted this committee he explained the necessity of freeing himself from future criticism in respect of the terms of any trade agreement that might be consummated and referred to the elaborate machinery set up in Washington, as constituting the reason for his not undertaking to negotiate an agreement without the assistance of an advisory committee. When I review, however, the difficulties placed in Dr. Concha's path by other committees which he has constituted—such as the recent Mission to Japan—and the failure of Dr. Belaunde in the Ecuadoran-Peruvian boundary dispute,<sup>39</sup> to carry out his wishes, I entertain some misgiving as to the reply that I may expect to receive next week.

With particular regard to the suggestion contained in the Department's telegram No. 46, November 8, 5 p. m., that I strongly resist Dr. Concha's argument concerning Peru's trade balances with Bolivia and Chile, citing our Government's well known position, unfortunately I regret that our position has little appeal for Dr. Concha under the existing circumstances for the following reason:

In principle, Dr. Concha would prefer that the proposed Peruvian-American trade agreement be based upon unconditional most-favored-nation treatment, without any limitation or qualification of any kind. In other words, his point of view is identical with that of the Department. It is not Peru which is seeking special favors or exceptional treatment from contiguous countries. Quite the contrary, it is Chile—and to a lesser extent Bolivia—which is demanding special concessions of Peru. The Chileans are merely capitalizing the imperative necessity of Peru to continue sales of not less than 100,000 tons of sugar to Chile.

Dr. Concha has made it quite clear—as previously reported by me—that if he could find another market for not less than 100,000 tons of

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<sup>39</sup> See pp. 217 ff.

Peruvian sugar he would refuse to accede to any of the Chilean demands. Thus it would appear that Dr. Concha's desire for exceptions—particularly in the case of Chile, and to a lesser extent in the case of Bolivia—springs from the pressure which these two countries are bringing to bear upon him. I am convinced that such pressure is both unwelcome and irritating to him.

In consequence, Dr. Concha is able to reply in good faith to the Department's well known position in favor of multilateral trade as against bi-lateral conventions that he entertains the identical desire and that if the Department can find some way of removing the pressure brought upon him by Chile—and to a lesser extent by Bolivia—he will be only too pleased to enter into an agreement based on the unconditional most-favored-nation treatment,—without exceptions of any kind.

I confess to great difficulty in meeting Dr. Concha's answer, in view of my recognition of the truth of his claim that he must have a market for the 100,000 tons of sugar in question, and that unless he grants special treatment to Chile, he is in great danger of losing this market.

Respectfully yours,

LAURENCE A. STEINHARDT

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611.2331/119: Telegram

*The Secretary of State to the Ambassador in Peru (Steinhardt)*

WASHINGTON, November 18, 1938—8 p. m.

53. Your despatches 737 and 741, November 5 and 9. While the Department is gratified that Concha has apparently receded from his previous position on exceptions in trade with contiguous countries other than Chile, you should continue to resist any proposals for exceptions other than on a limited list of specific commodities in the case of Chile.

It is hoped within a few days, after consulting the Trade Agreements Committee, to be able to inform you regarding the exceptions which we would be prepared to accept in the case of Peruvian imports from Chile.

The Department agrees with you that a formal reply to Concha's note of October 21 is not necessary at this time.

HULL

611.2331/120 : Telegram

*The Ambassador in Peru (Steinhardt) to the Secretary of State*

LIMA, November 24, 1938—noon.

[Received 2:35 p. m.]

84. Referring to the Embassy's despatches 741 and 763 <sup>40</sup> November 9th and 19th respectively. Dr. Concha informed me orally yesterday that Peru will agree to limited exceptions in the case of Chile, but that the list of exceptions to be proposed and now being prepared will be long, and on the condition that there be an exchange of letters or informal notes in addition to the trade agreement, by which the United States will undertake to reconsider the exceptions listed in the trade agreement in the case of Chile, in the event that the Chilean demands upon Peru in the course of the negotiation of the new Peruvian-Chilean commercial treaty are of such a nature as to necessitate such reconsideration.

STEINHARDT

611.2331/126 : Telegram

*The Secretary of State* <sup>41</sup> *to the Acting Secretary of State (Welles)*

LIMA, December 12, 1938—3 p. m.

[Received 6:36 p. m.]

21. For Hawkins <sup>42</sup> [from Smith <sup>43</sup>]. In a conversation today, Ambassador Steinhardt stated he believed it desirable in the near future to give the Peruvians some general idea of the concessions we might offer in a trade agreement, before discussion on most-favored-nation exceptions was advanced in too great detail on individual commodity exceptions. As I find that the Peruvians do not seem to realize the limited nature of the concessions we will be in a position to offer, the Ambassador's suggestion seems a good one. If such a procedure is agreeable to the Department, I suggest your keeping us informed by air mail of any trade agreements committee action on schedule 2, as well as of any such action on Egypt, Chile and the Dominican Republic as it may affect Peru. Allen's letter received. Smith.

HULL

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<sup>40</sup> Latter not printed.

<sup>41</sup> Then in Lima, as Chairman of the delegation of the United States to the Eighth International Conference of American States; see pp. 1 ff.

<sup>42</sup> Harry C. Hawkins, Chief, Division of Trade Agreements.

<sup>43</sup> H. Gerald Smith, secretary of the delegation of the United States to the Eighth International Conference of American States.

611.2331/126 : Telegram

*The Acting Secretary of State to the Ambassador in Peru  
(Steinhardt)*

WASHINGTON, December 16, 1938—10 p. m.

59. Your 21, December 12, 3 p. m. For Smith. As you know, the possibility of considering concessions on certain products which will probably be of considerable interest to Peru depends to a large extent upon factors requiring clarification in connection with other negotiations and conversations. For this reason, any indication of Schedule 2 possibilities which we would be in a position to give to the Peruvian authorities at this time would be incomplete and, therefore, might well be unduly discouraging to them. Moreover, from a tactical point of view it would also seem undesirable to engage in Schedule 2 discussions before receiving the Peruvian list of exceptions to most-favored-nation treatment mentioned in the Embassy's telegram no. 84, November 24, noon.

You will be kept informed by airmail of all important developments. Meanwhile, in formulating a tentative Schedule 2, it would be very helpful to have a list of products on which the Peruvian Government would hope to obtain concessions. Accordingly, you may indicate the desirability of our receiving such a list at an early date, stressing, in this connection, the rule of principal or important supplier. You should also endeavor to obtain at the earliest possible date the list of exceptions to most-favored-nation treatment.

WELLES

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**GOOD OFFICES OF THE DEPARTMENT OF STATE IN NEGOTIATIONS  
TO SECURE A RESUMPTION OF PAYMENTS ON PERUVIAN BONDS**

823.51/1199

*Memorandum of Conversation, by the Under Secretary of State  
(Welles)*

[Extract]

[WASHINGTON,] January 24, 1938.

The Peruvian Ambassador<sup>44</sup> called to see me this morning at my request. I told the Ambassador that it had been a matter of great satisfaction to me to note during the past two years the steadily increasing economic prosperity of Peru and the very definite general improvement in financial and commercial circles in his country. I said that a few days ago the Vice President of the Protective Council of Foreign Bondholders<sup>45</sup> had stopped in to see me and had referred

<sup>44</sup> Manuel de Freyre y Santander.

<sup>45</sup> Francis White.

to the gesture made during the preceding year by the Peruvian Government to its American bondholders<sup>46</sup> and had reminded me that the Peruvian Government under its constitution and laws would have to determine in its budget before the end of the coming month of March the amount to be set aside for service on its foreign-held debt. I said to the Ambassador that there was not much time now left before the Peruvian Government would have to determine what it was going to do with regard to its American creditors. I then went on to say to the Ambassador that owing to the recent fall in the price of coffee certain American republics which had reached agreements with their bondholders had been forced to suspend servicing the debts so held and that other republics which had been about to commence negotiations had been forced to postpone them. I said that in the case of the Government of Mexico he was familiar from press accounts with the difficulties with which American interests had recently been confronted; and I reminded him that in the case of Brazil, notwithstanding the efforts of Ambassador Aranha to commence the negotiations for a new agreement between Brazil and the American bondholders,<sup>47</sup> no progress had yet been made. I said that I reminded the Ambassador of all of these facts because they were unfortunately beginning to have a very definite effect upon public opinion in this country. I said that a very large percentage of our citizens had invested in securities of the other American republics and had borne, I thought, with unusual patience in view of the individual circumstances of so many of them the long-continued default on the part of so many of the American governments. In the past two years, however, these American bondholders had seen conditions improved very materially in almost every American republic, and they were now at a loss to understand why in view of this improved situation the respective American governments did not take steps quickly to resume at least in part the servicing of these debts held here. I said that fortunately Peru had not been affected in the prejudicial manner in which the other republics I mentioned above had been affected and that, consequently, she was in the opinion of impartial observers perfectly able to undertake the negotiation of a satisfactory agreement with the American bondholders. I added that, if my understanding was correct, the servicing of her foreign debt amounted to only about 13 percent of her present revenues and that it would seem to me that in her own interests some approach should now be made to solve this problem. I said that in the interests of Peru herself such a step at this time, in view of the failure of so many other governments to meet their just obligations to our nationals, would create a very friendly

<sup>46</sup> See Foreign Bondholders Protective Council, Inc., *Annual Report, 1937* (New York, 1938), pp. 564 ff.

<sup>47</sup> See pp. 373 ff.

and favorable atmosphere for Peru in this market and that conditions were such as to make it highly likely that a fair settlement from the standpoint of Peru could readily be found. Later on I reminded the Ambassador that Peru would undoubtedly want American investments in Peru for the sake of the development of the country and that it was undoubtedly of interest to the Peruvian Government to bear this fact in mind.

I then reminded the Ambassador that in my conversations with the present Foreign Minister, Dr. Concha, last summer, Dr. Concha had assured me that just as soon as he became Foreign Minister he would seek to find a satisfactory solution of all of the matters affecting American interests in Peru and that he had specifically mentioned the American-held portion of the Peruvian debt. I concluded by saying that it had been a matter of great satisfaction to the Department of State that the sugar legislation<sup>48</sup> passed in the American Congress last summer had given fair and reasonable treatment to Peruvian sugar, a matter in which the Peruvian Government had been so deeply interested, and that while this had been done unilaterally and not as a result of any bargaining, nevertheless I felt that it was only fair to expect equally friendly and considerate treatment on the part of the Government of Peru in the interests of our nationals.

The Ambassador said that he was wholly in accord with my own point of view; that he felt that the step I had suggested should be taken, not only because of the ultimate interest of Peru, but because it was inherently sound and just. He said that he was perfectly confident that Dr. Concha, to whom he would at once report our conversation, would be entirely in accord with the desire I had expressed. He said, however, that he thought the difficulty would come from President Benavides, who was interested beyond everything else in the continuation of his public works program, and that it would be very difficult to persuade President Benavides that any portion of government revenues now being utilized for the construction of public works should be diverted to other purposes, no matter how legitimate these purposes might be. The Ambassador said, however, that Dr. Concha undoubtedly had great influence on the President of Peru and that he believed he would do his utmost to reach a satisfactory settlement of this question. The Ambassador said that he would advise me as soon as he received an answer to the communication he would now send his Government by air mail.

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S[UMNER] W[ELLES]

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<sup>48</sup> Approved September 1, 1937; 50 Stat. 903.

823.51/1204

*The Peruvian Ambassador (Freyre) to the Under Secretary of State  
(Welles)*

WASHINGTON, 25 February, 1938.

DEAR MR. WELLES: In reply to a letter I wrote to Dr. Concha, on January 24th 1938, transmitting your remarks<sup>49</sup> with regard to the service of the Peruvian loans placed in the United States, he requests me to define as follows the position, views and purposes the Peruvian Government hold on the subject.

1. In order to appropriate S/. 4,000,000 for the service of the loans, the Peruvian Government had to overcome strong opposition. At a time when public works and social reforms required the expenditure of large sums at home, resumption of the debt service seemed unwise. Moreover, these loans had been looked upon with disfavour ever since the circumstances surrounding their inception were disclosed; nor did the manner in which their proceeds were spent render them more acceptable. The Peruvian Government's action in the case should therefore not be judged solely in the light of the amounts appropriated, but due consideration should be given as well to the difficulties they had to face in going counter to a widespread feeling. The Peruvian Government proposed above all formally to acknowledge the validity of their contractual engagements, an issue they believed to be of paramount importance. As to how far they could go in meeting their creditors' demands, they were well aware that little ground could be covered for the moment, but they trusted the creditors' best judgement for the acceptance of a small offer as an earnest of the Government's good faith and intentions.

2. National revenue has no doubt increased, but the needs of the country have likewise grown. In Peru as elsewhere the Government have been faced by social and economic evils that had to be corrected. The Peruvian Government consequently adopted the policy of undertaking public works on a large scale, so as to provide the labouring classes with adequate means of livelihood and to strengthen the country's economic structure. Highways were built to connect distant parts of the land; irrigation projects were carried out; public schools erected; social security laws enacted. These varied Government efforts required an unusual outlay, forcing the Government to husband their resources. But if the cost seemed high, the results promised to be equally beneficial, for, with improvement of production and distribution, and proper care being taken of the people's needs, the nation's welfare and wealth would be promoted. Thus, with better revenues in view and law and order assured, the Government could

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<sup>49</sup> See Mr. Welles' memorandum of January 24, *supra*.

look forward to the day when larger sums might be assigned to refund their debts.

3. The Peruvian Government's firm intention gradually to liquidate their indebtedness is further evidenced by the appropriation they have made lately of S/.2,000,000 to pay off what was due to the Air Craft Corporation.

4. The budget for the present year has been in force since January 1st 1938, and cannot be altered until after December, 1938.

5. Failure on the part of the Peruvian Government to offer more liberal terms to their American creditors should not be interpreted as an unfriendly act. By all means at their disposal the Peruvian Government have endeavoured on the contrary to prove their friendliness. When they proposed the Hon. Cordell Hull for the Nobel Peace Prize, they wished to honour the statesman, but also to respond in some degree to the neighbourly attitude of his Government. The services of an American Naval Mission<sup>50</sup> were sought mainly, no doubt, for technical reasons; in so doing however the Peruvian Government were prompted as well by the knowledge that a Mission of the kind could not fail to stimulate a good understanding between our peoples. Nor did the Peruvian Government express their willingness to explore the possibilities of a trade agreement with the United States only for the purpose of obtaining material advantages; once more they kept in mind the need of bringing both countries closer together by forging new links. If in the matter of foreign loans the Peruvian Government may seem inadequately to have met their creditors' demands, one should recall that the Government bear a heavy responsibility and have imperative duties to perform toward their own people. Much would be lost and little gained were the progress of the country to be stunted at the present time and order possibly perturbed, merely because the Government had been forced to curtail their expenditures at home for the sake of improving the service of their loans abroad.

With cordial personal regards [etc.]

M. DE FREYRE Y S.

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823.51/1204

*The Under Secretary of State (Welles) to the Peruvian Ambassador (Freyre)*

WASHINGTON, March 8, 1938.

MY DEAR MR. AMBASSADOR: I wish to thank you for your kindness in writing to me on February 25, last, and summarizing, at the request of Dr. Concha, the position of the Peruvian Government concerning the servicing of the Peruvian dollar bonds.

<sup>50</sup> See pp. 888 ff.



In giving the contents of your letter the careful study and consideration which they demand, I have been particularly impressed by the manifestations of the friendly attitude of the Peruvian Government towards the United States mentioned in the concluding paragraph of your letter. It is, of course, unnecessary for me to attempt to say to you how much these evidences of close friendship have been appreciated in this country; nor do I think that it is necessary for me to mention the various ways in which this Government has in the recent past attempted to show its feeling of warm friendship towards Peru, as for example, the measures adopted by this Government several months ago to increase the amounts of sugar that might be imported from Peru, notwithstanding the strong opposition of American interests which regarded themselves as adversely affected.

With respect to the debt question, a large proportion of the outstanding Peruvian dollar bonds are held by persons of small means in the United States, many of them widows and aged persons who, relying upon the good faith of the Peruvian Government to honor the obligations which it solemnly assumed, placed their savings and limited capital in Peruvian bonds. The Department receives frequent letters from such bondholders, and it appears that a large number of these persons have been placed in distressing circumstances the last several years owing to the default of the obligations on which they had relied with such confidence. These persons are not unsympathetic with the desire of the Peruvian Government to increase its public works and to make increased appropriations for social reforms and other purposes, but it is difficult for them to perceive the logic of any claim that the Peruvian Government is prevented by economic circumstances from making interest payments of more than approximately one-half of one percent on its external obligations while paying full contractual interest on its internal bonds, excepting a reduced rate from eight to six percent in the case of one issue, and while making unprecedented outlays for certain other purposes. The same persons recall that the 1938 budget is the largest in the country's history, being even larger than in the years before the depression when the Peruvian Government contracted the existing loans and when it was making full service payments, and they are impressed with reports reaching the United States that the year 1937 was one of the most prosperous years experienced in the commercial relations of Peru.

I can say definitely that the American holders of Peruvian bonds have had no desire to be grasping or unreasonable creditors, and during the period of the unprecedented world economic depression when many governments were obliged by circumstances beyond their control to curtail their budgets substantially, they were disposed, I should say, to take this factor into consideration and to forego the

full amounts which the Peruvian Government had agreed to pay to them. Their present feeling, however, is that while there are undoubtedly many opportunities for useful expenditures for public works and other constructive purposes in Peru, as in most other countries of the world, Peru's needs for these purposes are probably no greater now than they were in 1929 and 1930, particularly since much progress in this field has been already made during the administration of President Benavides, and these persons feel that in the last analysis they are being called upon to meet such outlays. They feel also, perhaps not without logic, that the debts of a Government are not altogether unlike the debts of an individual, and that although an individual is often mindful of things which he would like to purchase and which would be of considerable value to him, increasing perhaps his productive efficiency, he usually arranges his personal affairs in order to give any contracted debt payments priority over such other expenditures as can possibly be dispensed with. That of course is the basis upon which the entire credit structure is based, for otherwise there could be no confidence such as to induce persons with savings to invest them in loans.

There is no question of the value of the action already taken by the Peruvian Government formally to acknowledge the validity of its contractual obligations and to make a small offer on the service of the loans as evidence of the Government's good faith and intentions. Nevertheless, it is my firm conviction that an offer at this time by the Peruvian Government to the American bondholders commensurate with Peru's economic resources would be of the greatest value in fortifying and increasing the feeling of good will in the United States towards Peru.

I am communicating the aforementioned observations to you in the spirit of candor that has always characterized our very pleasant personal relationship and with the hope that they may be of some assistance in clarifying this situation which I consider to be of such importance in the cordial relations between the two countries.

With all good wishes [etc.]

SUMNER WELLES

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823.51/1210

*The Ambassador in Peru (Steinhardt) to the Chief of the Division of the American Republics (Duggan)*

LIMA, May 11, 1938.

DEAR LAURENCE: During the past few days I have had several talks with Dr. Oreamuno,<sup>51</sup> Mr. Roca<sup>52</sup> and Mr. Heineman of the

<sup>51</sup> J. Rafael Oreamuno, representative of the General Advisory Committee of Peruvian Bondholders.

<sup>52</sup> Benjamin Roca, Minister for Finance and Commerce.

National City Bank, and have to report to you as follows with respect to the present status of the negotiations looking to the readjustment of the Peruvian Government dollar indebtedness.

Roca has proposed to Dr. Oreamuno a definitive readjustment along the following lines: The Peruvian Government will engage itself to appropriate annually the sum of S/. 10,000,000 which will have a guaranteed exchange value of \$2,500,000; the payment of the two and one-half million dollars to be secured by what amounts to an assignment of the revenues arising out of oil taxes received from the International Petroleum Company,—which are unquestionably ample—to cover the payment of \$2,500,000 per annum.

Roca's plan provides, in substance, for a reduction of the principal face amount of the total indebtedness by roughly fifty percent; interest to be resumed at the rate of three percent per annum on the reduced face amount; the balance of the two and one-half million dollars to be applied to the amortization of the reduced debt over a period of twenty-five years by calling bonds by lot at par. He also intimated to Dr. Oreamuno that he was prepared to consider refunding the past due coupons. None of us are entirely clear as to whether he intends that the amortization of the refunding bonds must be provided for out of the two and one-half million dollar fund, or whether he is willing to make a modest additional appropriation therefor. It is my own opinion that he intends the amortization of any bonds issued to refund past due coupons to be included within the two and one-half million dollars, but he has expressed himself so vaguely on this point to everyone that none of us are sure of just what he has in mind.

Insofar as concerns the application of the proposed fund of two and one-half million dollars I understand that as many as six or eight different plans have been suggested and are under consideration. One favors a higher interest rate at the expense of amortization; another favors a more rapid amortization at the expense of interest payments; another proposes a smaller reduction in the principle of the indebtedness at the expense of amortization; still another contemplates the use of internal bonds—with a fixed rate of exchange—for the settlement of at least a part of the debt in order to avoid the proposed large reduction in principle.

All of the plans under discussion are predicated on the appropriation by the Peruvian Government of not more than \$2,500,000 per annum for debt service.

Dr. Oreamuno appears convinced that \$2,500,000 per annum is the maximum Roca will agree to set aside for the dollar bonds and does not believe that the President would consent to a larger amount, his approval of even \$2,500,000 being doubtful. I may add that I

entertain the same opinion. I understand that Oreamuno has reported to this effect to the Bondholders Committee and Protective Council in New York and has, in substance, recommended the acceptance of annual payments of \$2,500,000 as the basis for formulating a mutually agreeable plan of readjustment. From what Dr. Oreamuno tells me, there appears to be some opposition in the Council to the acceptance of the amount proposed as the basis of negotiations.

On the assumption that it may be of interest to you to have the expression of my views for what they may be worth, I am setting them forth below:

No one who has not been on the ground here can possibly realize the difficulties with which we have been confronted in persuading the Peruvian Government to even consider substantial payments on the dollar bonds and the intensity of the efforts to coax them into increasing the original proposal from S/. 8,000,000 to what amounts to S/. 10,500,000 (a guarantee of \$2,500,000 is equivalent to S/. 10,500,000 at the present rate of exchange).

The President is fundamentally and bitterly opposed to any payments on the dollar bonds, and has not yet formally approved of the proposal made by Roca. Incidentally the President is just as much opposed to the payment of foreign commercial debts and continues to withhold his approval of the Electric Boat payment.<sup>53</sup> With the exception of Roca no one in authority is in the slightest degree interested in a readjustment of the country's external indebtedness or, for that matter, in the country's credit. Mr. Roca is about seventy-six years of age and in poor health. He and the President are at the moment deadlocked on the payment to the Electric Boat Company and I should not be at all surprised were Roca to resign at any time on this issue, as he has passed his word to Mr. Sutphen<sup>54</sup> and feels his personal honor is at stake. Should he die, be compelled to retire by ill health, or resign, the prospect of any payments in the immediate future will become nil. If, as is generally believed, Manuel Ugarteche is to be his successor, the possibility of a settlement will vanish. Only the long standing friendship between Roca and the President and the ability of the former to coerce the latter is likely to bring about the President's reluctant acquiescence in the payments proposed by Roca.

If, as now seems likely, there is to be an election next year, the country will be thrown into turmoil and the foreign debt lost in the shuffle. Furthermore, if a plan is agreed upon and put into effect before the election, a presidential decree would be sufficient to make

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<sup>53</sup> An agreement was reached later in May 1938 for the payment of the debt due the Electric Boat Co. for the construction of a naval base, four submarines, and a number of torpedoes (823.34/246, 247).

<sup>54</sup> Henry R. Sutphen, vice president of the Electric Boat Company.

it operative. Any plan attempted to be consummated after the election of a congress would have to ride the violent opposition of a substantial body of public opinion which would be excuse enough for the Government to abandon the plan.

There are several important newspaper owners and editors opposed to any payments on the foreign debt. At present they are rigidly restricted by censorship. With a congress in session they would unquestionably support the inevitable attacks in congress on any plan. The disclosures before our Senate Investigating Committee of the commission paid to Juan Leguia<sup>55</sup> are certain to be aired again and the hostility in many quarters to the Leguia regime will be used as a pretext for upsetting any plan that may have been agreed upon.

The economic condition of the country at the present time is relatively very good, but the drag from outside sources gives reason to believe that governmental revenues may begin to fall off by the end of this year. At the slightest indication of any marked decline in government revenues, no plan which is not in effect can be consummated, for the President—adamant on this subject—would seize upon such a decline as a pretext for refusing to go through with the settlement.

As I have said above, it is my considered judgment that at the present time the only individual in Peruvian public life who possesses the integrity of purpose, force of character and personal relationship with the President to successfully fight for and consummate any plan of readjustment is Roca. He is highly sensitive. Too much opposition or criticism from the Committee or Council may cause him to abandon his efforts on behalf of the bondholders. The President would welcome such a development and find justification therein for his position. I am convinced that on the withdrawal by Roca of his aggressive support any possibility of a settlement or increased payments will disappear and that it will be years before the subject can be revived. During the intervening period the bondholders will receive no interest and it is extremely doubtful that any plan formulated in the future will be of greater advantage to the security holders than that now proposed. I suggest that the bondholders will receive no interest, for if Roca's proposal is finally rejected, such action will be seized upon as an excuse by the President for making no further payments.

A temporary arrangement on the terms outlined by Roca appears to be out of the question for he has made it unmistakably clear that

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<sup>55</sup> Son of Augusto B. Leguia, former President of Peru. For the relations of Juan Leguia with the Electric Boat Company contracts, see U. S. Congress, Senate, *Hearings before the Special Committee Investigating the Munitions Industry, United States Senate, 73d Congress, pursuant to S. Res. 206, Part 1, September 4, 5 and 6, 1934, Electric Boat Co.* (Washington, Government Printing Office, 1934), pp. 119, 130, 131, 132, 135.

unless a definitive agreement is arrived at he will not accept a temporary basis, and that if the amount proposed by him is not acceptable, no further payments of any kind will be made. The \$500,000 set aside last year for amortization by purchases in the open market is about to be appropriated by the Government for other purposes. The excuse offered is that the Council objected to purchases in the open market at greatly depreciated prices.

I think I should tell you, in confidence, that the communications addressed during the past year by the Council to the Peruvian Government have had a very unfavorable effect on the President and Roca. They both very much resented the tone employed. Dr. Oreamuno will doubtless tell you more on this subject when he sees you.

Roca told Oreamuno that if his offer of \$2,500,000 was accepted as the basis for formulating a plan, he would be willing to go to New York to discuss the details with the Committee and Council, but that unless he was assured the basis proposed by him was agreeable, he would not make the trip.

In conclusion, it is my opinion that the most recent proposal made by Roca is substantially the best that can be obtained and that if it is not accepted, the members of the Committee or Council who may cause its rejection must be prepared for a return to the status of total default with virtually no prospect of any payments to the bondholders for many years to come, and a grave doubt that any terms arrived at years hence will be of any greater advantage to the bondholders.

I do not say that the proposal now made is the best that could be made were the President not so bitterly opposed to any payments whatsoever. An additional \$500,000 per annum could probably be squeezed out of the budget, but in view of the President's determined opposition and the steadily increasing tension between Roca and himself by reason of the President's opposition to the proposal as made, I am convinced that the present offer is substantially the best obtainable.

As I see it, the question is much less that of acceptance or refusal by the Committee and Council than whether Roca can force the President to go through with his plan should the Committee and Council accept. Thus far he has not been successful in the Electric Boat Company matter, which presents identically the same conflict of views—involves a much smaller amount of money, and presents stronger arguments in support of Roca's position.

I understand that Dr. Oreamuno intends to make a further effort to win Roca's consent to an additional future contingency payment, dependent upon an increase in government revenues. If he is successful in this respect or in obtaining a modest progressive increase for

future years in the amount now proposed, I think he will have accomplished the maximum possible.

With kindest personal regards [etc.]      LAURENCE A. STEINHARDT

823.51/1225

*The Secretary of State to the Chargé in Peru (Dreyfus)*

No. 162

WASHINGTON, September 2, 1938.

SIR: There are enclosed herewith for your information copies of telegrams dated February 24, 1938 and August 23, 1938<sup>56</sup> from the Foreign Bondholders Protective Council, Incorporated, of New York, to the Peruvian Minister of Finance relative to the desire of the Council that the Government of Peru designate a representative to discuss with it the question of Peruvian bonds now in default.

In this connection you are informed that the Council, since no reply had been received to its telegram of February 24, 1938, inquired whether the Department could instruct the Embassy to bring this question informally to the attention of the Minister for Foreign Affairs and express the hope that a reply might be made. Careful and sympathetic consideration was accorded this request. However, since it is the policy of the Department in the exercise of its good offices vis-à-vis foreign governments to avoid any appearance of supporting the Council to the exclusion of or against the other protective agencies which may have been established in the field, the position was taken that the action requested might very well impair the negotiations now being carried on by the representatives of the General Advisory Committee of Peruvian Bondholders. The Council was so informed and it then sent its telegram of August 23, 1938.

You are requested to keep the Department promptly informed of all developments and, particularly, of the reaction of the authorities to the telegraphic communications of the Council. You will, of course, exercise due caution so that the impression is not gained that this Government is partial toward either the Council or the Committee or that any action is now being taken in their behalf.

Very truly yours,

For the Secretary of State:  
A. A. BERLE, JR.

823.51/1234: Telegram

*The Chargé in Peru (Dreyfus) to the Secretary of State*

LIMA, October 6, 1938—noon.

[Received 3 p. m.]

67. The Peruvian Government has made a counterproposal to the Bondholders Committee plan referred to in my despatch 521, July 14

<sup>56</sup> Neither printed.

[13].<sup>56a</sup> The offer is 1½% interest on the national loan and 2% on tobacco loan for the first 5 years; after 5 years rate of interest to be 3% on both. Oreamuno states that if this proposal is accepted promptly, the resulting agreement will not require ratification by Congress, thus avoiding public debate and possible rejection here. Roca is resigning as Minister of Hacienda but he would withhold his resignation until the matter is settled and would accept responsibility and the bitter public criticism which will surely follow publication of the settlement. He is resigning in any case and if present offer is not accepted, negotiations will have to start all over again with a new minister. Roca said the other members of the Cabinet are opposed to the settlement but will approve it. Oreamuno feels that the President hopes that the counterproposal will be rejected and Peru be relieved of further responsibility. Oreamuno therefore considers that this is the last chance and that any efforts to obtain better terms would give Peru the desired opportunity to break off the negotiations.

Local feeling is opposed to any settlement whatever and the Embassy strongly favors acceptance.

DREYFUS

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823.51/1234

*The Secretary of State to the Ambassador in Peru (Steinhardt)*

WASHINGTON, October 22, 1938—1 p. m.

42. Your telegram no. 67, October 6, noon. Glazebrook, Chairman of the General Advisory Committee of Peruvian Bondholders, has been in discussion with White, President of the Foreign Bondholders Protective Council, and both have talked with the Department and with Ambassador Steinhardt about the most practical and effective method of trying to facilitate negotiations looking toward a settlement on Peruvian bonds held in the United States. Their discussions have not yet reached definite conclusion.

In the meantime, the Department understands that the Advisory Committee is instructing Oreamuno to endeavor to secure the best possible written offer for simultaneous transmittal to the Committee and the Council.

For your information only: The Ambassador on his return will informally express to the Peruvian authorities the great interest of this Government in the arrangement of some mutually satisfactory settlement and the hope that the Peruvian Government will do its utmost to put forward an offer satisfactory to the Council and the Committee.

HULL

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<sup>56a</sup> Not printed.



823.51/1252a : Telegram

*The Secretary of State to the Ambassador in Peru (Steinhardt)*

WASHINGTON, November 21, 1938—7 p. m.

55. The Foreign Bondholders Protective Council is informed that Schroder and Company of London has announced an offer by the Peruvian Government to the British holders of the Guano Loan of 4% interest and 2% amortization, this offer being of a definitive character. Please query and report.

You are of course familiar with the Department's policy of opposing any discrimination against American bondholders (Department's telegram 77, November 29, 1932<sup>57</sup>), and consequent desire that an equitable ratio be maintained in the interest rates fixed under the contemplated debt settlements.

HULL

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823.51/1253 : Telegram

*The Ambassador in Peru (Steinhardt) to the Secretary of State*

LIMA, November 22, 1938—6 p. m.

[Received 9 p. m.]

81. Your telegram No. 55, November 21, 7 p. m. The Peruvian Government has offered 52140 pounds annually to be applied to payment of interest and amortization on the guano loan, the rate of interest to be 4%.

The difference in terms which Minister Roca proposes as between the British held guano loan, the American held tobacco loan, and the National loan which is both British and American held, rests upon three principal considerations as follows.

(a) The interest rate of 7½ per cent on the guano loan as against 6% on the National loan.

(b) The fact that the guano loan is secured by all revenues from the sale of guano which revenues have at all times exceeded the service contracted for, as against which the National loan is wholly unsecured and the tobacco loan is secured by revenues which have been inadequate to meet the service contracted for.

(c) The vast difference in the amount of bonds outstanding, there being approximately 4 million dollars of guano bonds as against 91 million dollars of National and tobacco bonds.

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<sup>57</sup> Not printed. This telegram referred to a reported plan for payment on the sterling guano loan and stated: "The Department assumes that there is no wish on the part of the Peruvian Government to give preferential treatment to British over American bondholders and that the Peruvian Government will therefore be prepared to propose terms to the latter not less favorable than those negotiated with the holders of the guano bonds." (823.51/903)

In denying any intention or desire to discriminate, Roca points out that the British owned *tranche* of the National loan, amounting to nearly 10 million dollars, exceeds the guano loan and will receive no better treatment than the American *tranche* and not as favorable treatment as the tobacco loan which is wholly American owned. Roca argues that a total of 14 million dollars of British owned bonds will be receiving no better treatment than 80 million dollars of American owned bonds after the National loan pays 3 per cent and this notwithstanding Peru's dependence on Britain to market its cotton.

Whatever conclusion the Council may ultimately arrive at, there certainly has been no conscious discrimination on Roca's part who insists that he would be glad to pay 4 per cent on the bonds of American issue if the total outstanding were 4 million instead of 91 million dollars, even though the interest contracted for is less than on the guano loan.

Roca also points out that the percentage of amortization inevitably bears a direct relationship to the amount of bonds outstanding and that the sinking funds must be within the budgetary capacity and the foreign exchange obtainable.

Roca sustained serious intestinal hemorrhages 2 days ago and is in a precarious condition. By Presidential Decree the Ministry of Hacienda has been temporarily assumed by the Minister of Justice.

STEINHARDT

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ENGAGEMENT OF UNITED STATES NAVAL OFFICERS TO SERVE AS  
ADVISERS TO THE PERUVIAN NAVY

823.30/213

*The Chargé in Peru (Dreyfus) to the Secretary of State*

No. 5243

LIMA, July 14, 1937.

[Received July 22.]

SIR: Referring to the Embassy's despatch No. 5078 of April 14, 1937,<sup>58</sup> concerning the desire of the Peruvian Government to obtain again the services of a United States Naval Mission<sup>59</sup> for the technical training of the personnel and the increased efficiency of the Peruvian Navy, I have the honor to report that (Naval) Captain Roque Saldias, Minister of Public Health, has made it known in no uncertain terms in conversations with members of the Embassy staff that he hopes that Peru will shortly be able to have again in its midst a United States Naval Mission. Captain Saldias gives the United States Naval Mis-

<sup>58</sup> Not printed.

<sup>59</sup> A United States Naval Mission functioned in Peru from 1920 to 1933. See *Foreign Relations*, 1920, vol. III, pp. 367 ff.

sion unstinted credit for all the good that it has done for the Peruvian Navy in the last decade and a half.

Should the Peruvian Government officially request the appointment of an American Naval Mission, I feel, after due consideration of the matter, that our Government should not fail to recognize the importance of such a Mission to American prestige in Peru, especially inasmuch as there are American Naval Officers in Brazil, Argentina and Ecuador, and British Naval Officers in Colombia. I do not hesitate to predict that, if the services of an American Naval Mission should be refused, the Peruvian Government will turn at once to Italy for the technical assistance which it requires.

The Peruvian Air Service is a component part of the Peruvian Navy and, therefore, in the event that an American Naval Mission should come to Peru, I would also like to suggest the advisability of including in the Mission one or two aviation experts. This would undoubtedly be a restraining force on the increasing Italian influence in Peruvian aviation. (See despatch No. 5190 of June 12, 1937.<sup>60</sup>)

Respectfully yours,

LOUIS G. DREYFUS, JR.

823.30/214

*The Peruvian Ambassador (Freyre) to the Secretary of State*

WASHINGTON, September 3, 1937.

YOUR EXCELLENCY: I have the honour to enclose herewith a Memorandum which my Government has entrusted me with submitting to Your Excellency's consideration. The Memorandum is self-explanatory and concerns the Peruvian Government's purpose to engage, as on former occasions, the services of United States technical advisers.

Trusting that Your Excellency will be so good as favourably to receive my Government's suggestions, and in return to express the United States views on the subject, I have the honour [etc.]

M. DE FREYRE Y S.

[Enclosure]

*The Peruvian Embassy to the Department of State*

MEMORANDUM

The Peruvian Government is anxious to engage the services, under a three year contract basis, of a number of United States Naval Officers on the active list, for the purpose of training and instructing the

<sup>60</sup> Not printed.

personnel of the Peruvian Navy, and advising on technical related subjects.

The Officers required would be: One Captain, who would act as Chief; One Captain, Supply Corps; One Captain or Commander, Submarine Specialist; Two Chief Petty Officers, one a Torpedo Gunner and the other a Gunner and Diver. The Peruvian Government besides would be pleased to avail itself under the same terms of the services of Lieutenant Commander Evander Wallace Sylvester.

The salaries would be: For the Chief Officer \$10,000—per annum; for each of the other Officers \$8,000—per annum; and for the Petty Officers \$2,500—each per annum. The amounts here quoted are in United States dollars.

It is understood from information received at the Peruvian Ministry of the Navy that a list of available United States Naval Officers on active service would be furnished to the Peruvian Government for its choice by the United States Government. The Peruvian Government deems it obviously preferable that part of the personnel of instructors should be already acquainted with the country where they are to serve. It therefore tentatively suggests that Captain S. A. Taffinder and Captain Emery D. Stanley, Supply Corps, be included in this list. In case Captain Taffinder were available, the selection of other members of the personnel could be left to his discretion.

The purpose of the Peruvian Government, as above stated, is to ensure the progressive development of the Peruvian Navy, in accordance with the countries needs and resources, under the direction of United States Naval Officers, who would thus be called upon to prosecute the task so efficiently performed by their predecessors. In order to accomplish this purpose in a manner that could not be misinterpreted, nor cause unnecessary inconvenience to either Governments concerned, the Peruvian Government has thought it advisable, before presenting a formal request, to take counsel with the United States Government, as it hereby ventures to do, in regard to the best means of reaching an agreement on the subject.

SEPTEMBER 3, 1937.

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823.30/218

*The Peruvian Ambassador (Freyre) to the Secretary of State*

WASHINGTON, December 16, 1937.

[Received December 17.]

YOUR EXCELLENCY: With reference to my note of December [September] 3, 1937, transmitting a Memorandum wherein my Government specified the number and qualifications of the United States Naval Officers and Petty Officers, whose service it wished to engage for the

purpose mentioned, I have been instructed formally to request, as I hereby have the honour to do, that Your Excellency's Government kindly acquiesce in my Government's proposal, and, if no objections exist to the terms tentatively submitted in the aforesaid Memorandum, as I understand is the case, that the individual agreements be drafted and forwarded to the Embassy for transmission to and approval of the proper authorities at Lima.

In the Memorandum referred to, my Government stated that Four (4) Officers and Two (2) Petty Officers would be required. I am now informed that the number of Officers remains unaltered, but that Five (5) Petty Officers, instead of Two (2) as formerly suggested should be engaged, the terms of their engagement to be the same as specified in the Memorandum.

Please accept [etc.]

M. DE FREYRE Y S.

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823.30/218

*The Secretary of State to the Peruvian Ambassador (Freyre)*

WASHINGTON, December 21, 1937.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of December 16, 1937, making formal request on behalf of your Government that this Government acquiesce in the proposal contained in the informal memorandum transmitted under cover of your note of September 3, 1937.

A copy of your note has been referred to the Navy Department which recently informed the Department of State that it was prepared to furnish a naval mission to your Government should it be requested. I am informed furthermore by the Navy Department that the composition and compensation of the naval mission as proposed in the memorandum accompanying your note of September 3 are agreeable to the Navy Department which is prepared, moreover, to furnish the three additional petty officers mentioned in your note under acknowledgment.

The Navy Department states that for obvious reasons it is impracticable to provide your Government, in advance, with a list of available officers from which your Government might make a selection. Your Excellency may be assured, however, that no one will be assigned to such duty without the prior approval of Your Excellency's Government.

In accordance with the verbal request of the Naval Attaché to your Embassy, on December 10, 1937, a draft of a contract for officers for the proposed mission will shortly be forwarded through the Department of State to Your Excellency. The Navy Department has suggested that further negotiations concerning the proposed mission be

carried on by direct conversation and writing between the Naval Attaché to Your Excellency's Embassy and the Division of Naval Intelligence of the Navy Department.

Accept [etc.]

For the Secretary of State:  
SUMNER WELLES

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823.30/224

*The Ambassador in Peru (Steinhardt) to the Secretary of State*

No. 213

LIMA, January 17, 1938.

[Received January 25.]

SIR: I have the honor to report that I have been informally told today that President Benavides has approved the proposed contract for an American Naval Mission to Peru. My informant stated that the President had suggested a few inconsequential changes in the language of the proposed contract, but had instructed the Minister of Marine not to stand on these changes and to authorize Ambassador Freyre to sign the contract in the form heretofore submitted to him should the United States Government seriously object to the minor changes proposed by him.

As it now appears that the contract may be signed at any time in Washington, I take the liberty of suggesting that the Embassy be advised by telegram at the time of the actual execution of the contract sufficiently in advance of a release to the American press to permit of making an arrangement with the Foreign Office for an appropriate press release in Lima; or in the alternative, that the Department cable the Embassy an appropriate press release simultaneously with the press release in Washington. My reason for making this suggestion is that should the news be released in Washington before it is officially known to the Embassy in Lima, the resultant brief United Press cable will call for an inconspicuous news item in the Peruvian press which will stand out in sharp contrast with the extensive publicity which was carefully arranged by the Italian Legation with the Lima newspapers on the occasion when the Italian police mission and subsequently the Italian aviation mission were announced.

As a news item in the United States the announcement will be relatively unimportant. In Peru, however, if received by the Embassy in the first instance it can be effectively availed of to offset Italian propaganda. If adequate notice is given the Embassy before the United Press cable reaches Lima, I do not doubt that publicity at least equal to that given the Italian Missions can be obtained.

Respectfully yours,

LAURENCE A. STEINHARDT

823.30/223

*The Secretary of State to the Peruvian Ambassador (Freyre)*

WASHINGTON, January 24, 1938.

**EXCELLENCY:** With reference to your note of December 31, 1937,<sup>a</sup> relative to the Naval Mission to your Government, I now have the honor to inform you that the Navy Department of my Government has made the following tentative selection of officers for that duty:

Captain Bruce L. Canaga, U. S. N.—Chief of Mission and Advisory Chief of Staff to the Minister of Marine.

Lieutenant Commander Leo L. Pace, U. S. N.—Qualified submarine officer.

Captain Emory D. Stanley (SC), U. S. N.—As advisor to the Minister of Marine in finance and accounting.

Commander Melville W. Powers (CC), U. S. N.—As advisor to the Minister of Marine for Construction and Repair.

- 1 Chief Gunners Mate
- 1 Chief Torpedoman
- 1 Chief Watertender
- 1 Chief Machinists Mate
- 1 Chief Radioman

The Navy Department adds that Captain Canaga and Lieutenant Commander Pace can be made available in early March 1938. Captain Stanley (SC) will not be available until some time in May 1938, and Commander Powers (CC) can be made available within a period of one month. A careful selection of Chief Petty Officers of the ratings indicated will be made in the near future.

The Navy Department further states that the employment of these officers for this duty involves modifications of orders and plans in existence. Accordingly, the Secretary of the Navy would appreciate it if he could be informed at the earliest practical date as to the acceptability of this personnel in order that the orders necessary to establish the Mission may be issued.

Accept [etc.]

For the Secretary of State:  
SUMNER WELLES

823.30/225

*The Peruvian Ambassador (Freyre) to the Secretary of State*

WASHINGTON, January 26, 1938.

[Received January 27.]

**YOUR EXCELLENCY:** In reply to Your Excellency's note of January 24, 1938, transmitting a tentative selection by the United States

<sup>a</sup> Not printed.

Navy Department of officers for the United States Naval Mission to my Government, I have the honour to state that the personnel suggested is in every way acceptable.

I furthermore wish to inform Your Excellency that I have been authorized to sign the agreement between our Governments for the said Mission. The terms of this agreement were submitted to my Government, who have signified their approval, with a few minor alterations already accepted by the United States Navy Department. I am therefore at Your Excellency's disposal to affix my signature to the document.

Please accept [etc.]

M. DE FREYRE Y S.

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823.30/225 : Telegram

*The Secretary of State to the Ambassador in Peru (Steinhardt)*

WASHINGTON, February 1, 1938—2 p. m.

6. Your despatch no. 213, January 17. Peruvian Ambassador will sign this week the first of a series of contracts for the services in an advisory capacity with the Peruvian Navy of four officers and five petty officers.

The employment of this personnel is being effected by individual contracts and not by a formal agreement between the two governments. Accordingly, it is deemed advisable to refer to them as "United States Naval Advisers" rather than "United States Naval Mission."

Announcement of the foregoing will be released to the press for publication in Thursday's papers. It is hoped that release at Lima can be made simultaneously with release here.

HULL



## URUGUAY

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

611.3331/134

*Memorandum of Conversation, by the Chief of the Division of  
the American Republics (Duggan)*

[WASHINGTON,] January 13, 1938.

I saw the Uruguayan Minister<sup>1</sup> at luncheon this noon. He referred to his recent conversation with Mr. Welles<sup>2</sup> and asked me if I could give him any advice as to whether he should leave on his vacation at this time.

I informed the Minister that Mr. Welles had spoken to me about the Minister's conversation with him and that thereafter I had talked with several persons in the Department about the Uruguayan trade agreement situation. I said that as I envisaged developments, the first would probably be an exchange of views by which each government might assure itself that there existed a basis for an agreement; the second would be the preliminary announcement; the third, the formal announcement; and the fourth, the negotiations, followed by signature of the agreement itself. I said that before the Minister left, which he now informs me will be on January 29, the Department would be in a position to discuss with him the bases of an agreement. The Minister asked me what the Department probably would have in mind and I said that the Department would like to have clear assurances in advance with regard to most-favored-nation treatment in connection with exchange<sup>3</sup> and quotas and, of course, in tariff matters, and that there might be some other points to be clarified. The Minister stated that the clarification of these might require consultation with his Government and that this might take some little time. I stated that if these preliminary exploratory conversations were not completed prior to his departure, which he himself stated did not seem likely, that they could be carried to conclusion with our Legation in Montevideo—that the Legation would of course welcome his cooperation at the other end.

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<sup>1</sup> José Richling.

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

<sup>3</sup> See pp. 923 ff.

I then said that if as a result of these conversations it was evident that the basis of an agreement existed, which I was sure would be the case, then the preliminary announcement would be issued. I felt that my Government would be in a position to proceed with the negotiations as soon as the Uruguayan Government was in a position to do so. The Minister said that he did not know how much preliminary work his Government had already done and that it might be several weeks before he was in a situation actively to negotiate.

The Minister gave me to understand that he was extremely anxious to carry on the negotiations himself here in Washington and that he would be assisted merely by some technical advisers, but not by another negotiator of equal rank.

The Minister stated that he was prepared to return to the United States at such time as the two governments were ready to undertake the actual negotiations. He also stated that, should it be decided that his presence would be helpful, a word dropped to him by Mr. Dawson<sup>4</sup> to this effect would be sufficient to start him back on the next boat. He said that all he wanted was two or three weeks in Uruguay at this time.

It was left that unless the Minister heard from the Department by early tomorrow morning, he will go to New York tomorrow to pay for his steamship passage on the *Rex*, which he indicated would not be refunded in case he had to change his plans. I said that I would consult at once, but unless he heard from me during the afternoon he might assume that the broad lines of the arrangement discussed between us were satisfactory to this Department.

LAURENCE DUGGAN

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611.3331/131a

*The Department of State to the Uruguayan Legation*<sup>5</sup>

#### MEMORANDUM

The Government of the United States, in view of the interest which it understands the Government of Uruguay has had in possible trade negotiations with the United States, and having considered the desirability of a trade agreement between the United States and Uruguay, would be happy to join with the Government of Uruguay in exploring the possibilities of such an agreement.

As the Government of Uruguay is aware, the trade agreements entered into by the United States, under the Trade Agreements Act,<sup>6</sup> are designed to remove excessive barriers to international trade and are negotiated on the basis of the unconditional most-favored-nation principle.

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<sup>4</sup> William Dawson, American Minister in Uruguay.

<sup>5</sup> Handed to the Uruguayan Minister on January 25.

<sup>6</sup> Approved June 12, 1934; 48 Stat. 943.

Consequently, before this Government would be prepared to make any public announcement (as is done in accordance with customary procedure) regarding the initiation of trade-agreement negotiations, it would expect a definite assurance that the Uruguayan Government would be prepared to negotiate upon the basis of the unconditional most-favored-nation principle applied to all forms of trade and payments control.

The acceptance of the above mentioned basis for negotiations would mean that prior to the commencement of negotiations all American products exported to Uruguay would be permitted entry into Uruguay free of any discrimination.

JANUARY 24, 1938.

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611.8331/139

*Memorandum of Conversation, by Mr. James C. Sappington of  
the Division of Trade Agreements*

[WASHINGTON,] January 24, 1938.

Participants: Dr. Richling, Uruguayan Minister  
Mr. Sayre<sup>7</sup>  
Mr. Daniels<sup>8</sup>  
Mr. Sappington

Mr. Sayre stated that the existing exchange situation in Uruguay as it affects American exports to that country is a matter of great concern to this Government. In this connection, he informed Dr. Richling of the views expressed to the Uruguayan Government by the American Minister at Montevideo in accordance with the Department's telegraphic instruction of January 14, 1938.<sup>9</sup> It was made clear to the Minister, however, that there was no connection between our concern in regard to the exchange treatment now accorded American products in Uruguay and the purpose of the present conversation regarding the possibility of negotiating a trade agreement with Uruguay.

The purpose of the trade-agreements program in its relation to the maintenance of world peace was outlined to Minister Richling, and the advantages to be obtained from the furtherance of multilateral trade as opposed to bilateral balancing of trade, were stressed. Dr. Richling agreed that the fostering of multilateral trade was essential in the long term view but presented the economic necessities of his country as requiring the immediate following of the bilateral principle. The Minister stated that his Government as a political matter

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<sup>7</sup> Francis B. Sayre, Assistant Secretary of State.

<sup>8</sup> Paul Daniels, of the Division of the American Republics.

<sup>9</sup> See Department's telegram No. 3, January 14, 4 p. m., p. 925.

agreed with and strongly supported the principles advocated by the United States but indicated that the difficulty for the Uruguayan Government lay in reconciling its political views with the economic necessities of the country.

Reference was made to the desire of the Uruguayan Government for a trade agreement with the United States. Mr. Sayre stated that, as the Minister was aware, informal conversations have been undertaken with the Argentine Ambassador for the purpose of ascertaining whether trade-agreement negotiations might be initiated with Argentina;<sup>10</sup> that as yet we did not know whether such negotiations could be initiated. However, in view of the similarity between Uruguay's and Argentina's export trade with the United States it seemed desirable that negotiations with the two countries be concurrent, if possible. Consequently, because of the possibility of trade-agreement negotiations with Argentina we wished at this time to ascertain the views of the Uruguayan Government respecting a trade agreement. Dr. Richling said that he had previously been promised by officers of the Department that a trade agreement would be negotiated with Uruguay at the same time as an agreement is negotiated with Argentina.

The customary procedure followed here in negotiating trade agreements was outlined and a memorandum,<sup>11</sup> a copy of which is attached, stating the basis upon which this Government would expect to conduct trade-agreement negotiations with Uruguay, was handed the Minister. In reply to an inquiry concerning the basis for negotiations Dr. Richling was informed that this Government would expect the removal of any discriminations in regard to customs duties and quotas, and would expect exchange to be allotted for American products at a rate not less favorable than that accorded any other nation. This last would mean that all American products would be permitted entry into Uruguay at the most favorable rate of exchange.

Dr. Richling inquired as to what he could tell his Government regarding the nature of duty concessions the United States would be prepared to grant Uruguay in a possible trade agreement and, in this connection, specifically mentioned the duty on meat products. He was informed that no answer could be given him at this time in regard to a possible duty reduction on meat products but that both governments would have to be prepared to make duty concessions in any trade agreement negotiated; that this Government would expect to make such concessions on products of interest to Uruguay in return for concessions granted by that country on American products.

The desirability of proceeding as rapidly as possible because of the approaching elections in this country, if negotiations are to be under-

<sup>10</sup> See pp. 272 ff.

<sup>11</sup> *Ante*, p. 896.

taken with Argentina and Uruguay in the near future, was indicated. Because of the length of time it will take Dr. Richling to reach Montevideo (he is sailing on January 29 from New York), the question was raised as to how this Government's position with respect to the basis for trade-agreement negotiations should be presented to the Uruguayan Government in the event negotiations with Argentina should be initiated prior to Dr. Richling's arrival in Montevideo. In the latter event it was decided, at Dr. Richling's suggestion, that the subject should be presented to the Uruguayan Government by the American Minister at Montevideo.

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611.3331/142 : Telegram

*The Minister in Uruguay (Dawson) to the Secretary of State*

MONTEVIDEO, March 3, 1938—5 p. m.

[Received March 3—4: 40 p. m.]

22. My telegram No. 19 of February 25, 7 p. m.<sup>12</sup> Richling called this morning and gave me information which may be summarized as follows: President Terra desires a trade agreement and wants in the meantime to facilitate trade with the United States. He has given instructions to this end and from conversations with the various officials concerned Richling feels that progress is being made towards the removal of some of the difficulties now affecting American imports. He holds out, however, no hope of immediate removal of all discriminations. He emphasizes as a factor affecting both the present situation and eventual trade agreement negotiations the fundamental differences between American and Uruguayan worlds, policies, and systems. Richling expects to arrive in New York early in April. In the light of his remarks to me today I do not believe that there now exists the possible misapprehension referred to in my telegram No. 19.

DAWSON

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611.3331/140 : Telegram

*The Secretary of State to the Minister in Uruguay (Dawson)*

WASHINGTON, March 4, 1938—4 p. m.

8. Your 19, February 25, 7 p. m.<sup>12</sup> The Department has informally given assurances to Richling that in the event the United States should initiate trade agreement negotiations with Argentina, negotiations would also be initiated with Uruguay if that Government should so desire and if a satisfactory basis for negotiations were agreed upon.

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<sup>12</sup> *Post*, p. 941.

Since the prospect of early negotiations with Argentina is now somewhat uncertain, this uncertainty naturally affects the possibility of initiating negotiations with Uruguay. It has always been understood that the most satisfactory procedure would be for the United States to negotiate simultaneously with both Argentina and Uruguay. In the event that it should be found possible to announce negotiations with Argentina, you will be promptly informed by telegraph so that further consideration may be given to the possibility of negotiations with Uruguay.

Notwithstanding the foregoing, the Department would be glad to explore the possibilities of separate negotiations with Uruguay, even in the absence of any concurrent negotiations with Argentina, provided a mutually satisfactory basis for such negotiations were agreed upon between the two Governments. Under present conditions the most important point to be determined in advance would be the application of the principle of unconditional most-favored-nation treatment to all forms of trade and payments control. As is well known, the present trade and exchange policies of the Government of Uruguay are contrary to the broad principles approved at both the Montevideo<sup>14</sup> and Buenos Aires Conferences,<sup>15</sup> and have discriminatory and injurious effects in their application to American trade with Uruguay. A mutually satisfactory solution to this problem must be agreed upon before it will be possible, in any event, to initiate trade agreement negotiations.

The Department fully understands that reaching a satisfactory agreement on this point might well involve a revision of Uruguayan commercial policy. The advantages of triangular or multilateral trade would have to be recognized, as contrasted with the present Uruguayan system which tends to restrict trade to a bilateral balancing between individual countries.

It is doubtful whether actual negotiations could be undertaken before late in 1938, or early in 1939, even if discriminations were removed by Uruguay and an acceptable basis for negotiations were developed before that time. It seems highly unlikely that these conditions could be fulfilled in the time indicated. In your discretion, you may advise the Uruguayan officials of the foregoing.

In connection with this subject the Department would be interested

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<sup>14</sup> Resolution V, Economic, Commercial, and Tariff Policy, *Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933* (Washington, Government Printing Office, 1934), p. 196.

<sup>15</sup> Resolution XLIV, Equality of Treatment in International Trade, *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936* (Washington, Government Printing Office, 1937), p. 240.

in receiving further reports from you along the line indicated in the last sentence of the Department's instruction no. 142 of May 12, 1937.<sup>16</sup>

HULL

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611.3331/149

*The Minister in Uruguay (Dawson) to the Secretary of State*

No. 42

MONTEVIDEO, March 7, 1938.

[Received March 18.]

SIR: I have the honor to refer to the Department's telegram No. 8 of March 4 (1938) 4 p. m., in which the Department acquaints me with the present outlook and its views respecting eventual trade agreement negotiations with Uruguay. The very full information furnished the Legation is greatly appreciated.

As stated in my telegram No. 19 of February 25, in view of his remarks of that morning to Mr. Reed,<sup>17</sup> I was apprehensive lest Dr. Richling might have conveyed to the Uruguayan Government, and in particular to President Terra, the impression that trade agreement negotiations between the United States and Uruguay were more imminent than was probably the case. However, as reported in my telegram No. 22 of March 3, my subsequent interview of the latter date with Dr. Richling led me to believe that the misapprehension or misunderstanding which I had feared either had not arisen or no longer existed. From his remarks to me on March 3, I am satisfied that Dr. Richling appreciates the obstacles to trade agreement negotiations resulting from the fundamental differences between the American and Uruguayan trade policies and systems. I infer also that he has explained to the officials concerned the difficulties inherent in the situation and the Department's attitude as respects measures which would have to be taken preliminary to any negotiations. As noted in my despatch No. 38 of March 3,<sup>18</sup> Dr. Richling told me that on his return to Washington he would, in informing the Department of his Government's desire to negotiate a trade agreement, acquaint it also with the situation which confronts Uruguay. From his statements and also from recent press notices (to be referred to below) I gather that the Uruguayan officials concerned are studying the matter and that their conclusions will be communicated to the Department by Dr. Richling.

I greatly appreciate the discretionary authority granted me by the Department to advise the Uruguayan officials of the substance of its

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<sup>16</sup> Not found in Department files.

<sup>17</sup> Leslie E. Reed, First Secretary of Legation.

<sup>18</sup> Not printed.

telegram No. 8. My action in the premises will depend to a considerable extent upon what may develop in my conversations with Uruguayan officials and upon what further information I may receive from Dr. Richling before his departure. If it continues to appear that Dr. Richling has informed his Government accurately as respects the Department's position, it may prove advisable, for the present at least, for me to take no action.

*Press Notices regarding Trade Agreement Negotiations.*

As stated in my telegram No. 21 of March 3,<sup>19</sup> a Montevideo newspaper (*El Diario, Riverista*) reported on the evening of March 2 that the Uruguayan Ministers of Foreign Affairs<sup>20</sup> and Finance<sup>21</sup> and representatives of the United States Government were meeting to consider a trade agreement. Insofar as it referred to representatives of our Government, the report was of course wholly unfounded. However, as Dr. Richling informed me subsequently, trade relations with the United States were discussed at a meeting held at the Foreign Office on March 2, attended by the Ministers of Foreign Affairs and Finance and other high officials. On March 4 and 5 several Montevideo papers published the text of what appears to have been a Foreign Office communiqué. The brief notice, carried under various headings, such as "Negotiations with the United States", and "A Treaty with the United States is Possible," reads in translation as follows:

"Specially invited by the Minister of Foreign Relations, Dr. José Espalter, the following gentlemen met yesterday at the Foreign Office: Acting Minister of Finance, Dr. Raúl Jude; Uruguayan Minister in Washington, Don José Richling; President of the Frigorífico Nacional, General Eduardo Da Costa; Exchange Manager of the Bank of the Republic, Don Fermín Silveira Zorzi; Director of Commercial Affairs of the Ministry of Foreign Relations, Don Felipe S. Crucci; and the Secretary of the Advisory Council on Commercial Affairs of the Ministry of Foreign Relations, Don Arturo Terra Arocena.

"An ample conversation was held concerning the possibilities of a commercial treaty to be agreed upon with the United States of North America, and it was decided to draft a memorandum which will be studied with the necessary attention next week, taking into account the economic consequences which necessarily will be derived from a convention with the United States, given the vital interests involved and the volume of commercial transactions with that country."

While this notice has thus far aroused no editorial comment, it is of some interest to observe that in its edition of March 4 *El Diario* (*Riverista*) published in adjoining columns the Foreign Office com-

<sup>19</sup> Not printed.

<sup>20</sup> José Espalter.

<sup>21</sup> Raúl Jude.



munique and an article entitled "Promises do not Suffice in the Field of Commercial Relations." The article referred to a telegram from Washington concerning our Government's desire to seek closer ties with the Latin American nations, and went on to say that it was time for tangible results. The following passages may be quoted:

"We are tired of hearing of the friendly disposition of the American people towards Latin America in the field of commercial ties, but what is certain is that the time for their effective realization never comes.

"Against our products North America raises its formidable tariff barriers, under the disloyal and useful pretext of the health of the products of its States, and, of course, of a misunderstood agrarian protectionism, the unjust result being that while we purchase from it the Union does not correspond by applying the same reciprocal policy."

The article concludes with the statement that it is necessary for the United States to establish effective commercial ties with these countries and that otherwise the latter will, in spite of speeches and promises, abandon the "expectant attitude which has already lasted too long," and "examine our commercial policy with a view to the protection of our commercial interests."

Respectfully yours,

WILLIAM DAWSON

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611.3331/148: Telegram

*The Secretary of State to the Minister in Uruguay (Dawson)*

WASHINGTON, March 18, 1938—6 p. m.

11. Your despatch No. 39, March 4, 1938.<sup>22</sup> Since it is not the practice of the Department to seek exclusive preferential facilities of any nature for American trade, it does not believe that you should take any action along the line indicated in your despatch under reference. There is also a strong possibility that the particular type of action you suggest would be held by the Treasury Department to be a bounty or grant within the meaning of Section 303 of the Tariff Act of 1930,<sup>23</sup> and to necessitate the imposition of equivalent countervailing duties, such as were imposed upon German products as a result of roughly comparable practices.

HULL

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<sup>22</sup> Not printed.

<sup>23</sup> 46 Stat. 590, 637.

611.3331/152

*The Uruguayan Chargé (Gorri) to the Under Secretary of State  
(Welles)*

[Translation]

No. 286

WASHINGTON, March 22, 1938.

MR. UNDER SECRETARY: With reference to the conversations which have been in progress for the purpose of initiating negotiations to concert a trade agreement with this country, I have the honor to advise Your Excellency that with the aim of advancing the study of the question, the Government of Uruguay again expresses its intention of negotiating a commercial agreement intended to regulate and promote interchange between the two countries.

To this end, my Government has honored me by authorizing me to continue the conversations with the competent authorities of Your Excellency's Government.

I therefore request of Your Excellency that you grant me an audience which will permit me to set forth the desires of my Government, which are in harmony with those expressed on various occasions by His Excellency, Cordell Hull, together with the reasons which lead my Government to state again its desire of arriving at an agreement.

I avail myself [etc.]

CÉSAR GORRI

611.3331/158

*Memorandum of Conversation, by Mr. James C. Sappington of the  
Division of Trade Agreements*

[WASHINGTON,] March 26, 1938.

Participants: Mr. César Gorri, Chargé d' Affaires of Uruguay  
Mr. Sayre  
Mr. Daniels  
Mr. Darlington <sup>24</sup>  
Mr. Sappington

Mr. Gorri stated that he had been authorized to initiate trade-agreement conversations on behalf of the Uruguayan Government. He referred to the advantageous exchange treatment accorded American trade by Uruguay in 1937, as evidence of Uruguay's desire for a trade agreement with the United States, and indicated that the disadvantageous exchange treatment accorded American trade by Uruguay in 1938, was due to the adverse balance of trade with the United States and the attitude of other countries with which Uruguay has existing

<sup>24</sup> Charles F. Darlington, Jr., Assistant Chief, Division of Trade Agreements.

agreements. In the latter connection Mr. Gorri stated that such countries (Britain, Germany, etc.) were informed as to the amount of exchange created by their purchases of Uruguayan products and insisted that such exchange be used by Uruguay to purchase goods from them. Mr. Gorri indicated that Uruguay wished an agreement with the United States which would improve the balance of payments between the two countries.

Mr. Gorri was advised that this Government would be happy to explore with the Government of Uruguay the possibilities of negotiating a trade agreement. The purpose of the trade-agreements program and its bearing upon world peace were outlined to Mr. Gorri. The reduction of restrictive barriers to world trade as contemplated by the program was stressed and, in this connection, Mr. Gorri was told that exchange restrictions were among the most difficult with which we had to contend. He was informed that the bilateral and most-favored-nation systems were diametrically opposed and that we could not compromise in principle in this regard; however, we would give careful consideration to all aspects of the problem as presented by Uruguay and wished the Uruguayan Government to give full consideration to all views advanced by this Government. Mr. Gorri stated his belief that if the United States granted concessions on Uruguayan products, such as meat products, flaxseed, etc., the exchange difficulty would disappear.

It was decided that Mr. Gorri would come to the Department on Tuesday, March 29, to begin technical discussions in an endeavor to ascertain whether a mutually satisfactory basis for trade-agreement negotiations could be developed. It was agreed that these technical discussions would not involve any commitments, but would afford an opportunity for a frank exchange of views; and that they would be considered confidential.

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611.006 Meat/13

*The Uruguayan Chargé (Gorri) to the Secretary of State*

[Translation]

No. 306

WASHINGTON, March 28, 1938.

MR. SECRETARY: With all due respect for the Honorable Secretary of State, and in the certainty that this note will serve only to draw his attention to one fact which conflicts with the principles repeatedly maintained by Your Excellency and by the President of the United States himself, "regarding the havoc resulting for the commerce of the world from an exaggerated protectionism in its numerous forms, or a blind search for an extreme economic nationalism" and [con-

flicts]<sup>25</sup> directly with Uruguayan interests, I take the liberty of setting forth the reasons which move me to do so.

The fact is, that the Congress of the United States, at this time, when Uruguay, faithful to the policy of the good neighbor maintained by the United States in her relations with the countries of Latin America, is renewing its proposal to initiate negotiations for the conclusion of a Commercial Agreement, is planning to increase by three cents a pound the duties on canned meats.<sup>26</sup>

Uruguay saw a considerable diminution in purchases by the United States in the year 1937, which fell from £2,700,000 in 1936 to £990,000 in 1937, while on the other hand Uruguay's purchases rose from £1,270,000 in 1936 to £2,138,000 the following year.

If that phenomenon occurred under the present duties, it is conceivable that if the increase of three cents is approved, i. e. the imposition of an increase of 50 percent on imports of canned meats, purchases by the United States from Uruguay will diminish in proportion to this increase, which is unjustifiable in the case of foodstuffs.

The present duty of \$0.06 a pound is equivalent to 20 Uruguayan pesos for each steer of the kind intended for canned meats, of an average weight of 420 kilos. If the proposed increase of \$0.03 were applied, the equivalent would increase to 30 Uruguayan pesos per steer, which compared with that applied by England, 15 Uruguayan pesos per chilled steer, i. e. of a quality superior to the former, would be twice as much.

Uruguay has followed a friendly and truly cordial policy with respect to the United States, as it has given it a treatment which may be expressed in the following terms: despite our laws for control over imports which we apply in general to all countries:

1. It has applied the most-favored-nation treatment to the United States, conditions being equal.

2. In order to permit its imports on the most advantageous conditions, it granted advances of quotas during the year 1937.

3. At the time when the scarcity of foreign exchange was most felt Uruguay permitted the entry of all agricultural machinery, implements, machinery in general and raw materials, and encouraged purchases from the United States, including even automobiles and other luxury articles, all of American origin, which aroused a protest on the part of countries with which there were agreements and available foreign exchange balances, because of the fact that they had not received a treatment equal to that of the United States.

4. While severe restrictive measures were applied with respect to other countries, to the point that the entry of articles necessary to

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<sup>25</sup> Brackets appear in the file translation.

<sup>26</sup> See letter of the Secretary of State to Senator Pat Harrison, Chairman of the Senate Committee on Finance, March 24, 1938, Department of State, *Press Releases*, April 2, 1938, p. 432.

industry and commerce was not permitted, Uruguay authorized the importation of American articles.

To this policy practiced by Uruguay in 1937 there is added the real desire to maintain it by means of a trade agreement; in return, the United States undertakes to increase by 50 percent the duties on imports of canned meat, the product of greatest commercial importance in this friendly country, which would lead, as an economic consequence, to the shrinking of the business of the United States with Uruguay to insignificant figures.

On the other hand, if the increase of \$0.09 continues as an unchangeable fact, without new resources being obtained, being incorporated into the act which is being debated in Congress, the result will be practically null; it is amply proved that both increases in tariffs and those in internal revenue rates, even when articles of prime necessity are involved, are made in inverse ratio to the increase in resources, and Your Excellency demonstrated that irrefutably in your splendid speech on "Trade, Prosperity and Peace",<sup>27</sup> made on February 6th last, from the studios of the National Broadcasting Company, in cooperation with the Committee on Economic Policy.

Approval of this act, increasing the rates of duty on imports of canned meat from Uruguay by 50 percent, will therefore mean a death blow to the trade which my country has maintained with the United States, and, as a logical consequence, as its purchasing power diminishes and it consequently becomes poorer by figures in the millions, it will cease to purchase products of American industries to an equal or greater extent.

Cherishing the hope that there may be means for avoiding the danger that is hovering over the export trade of Uruguay with the United States, to take up fully the discussion of the possibilities of a trade agreement between the two countries, I avail myself [etc.]

CÉSAR GORRI

611.3331/159

*Memorandum of Conversation, by Mr. James C. Sappington of the  
Division of Trade Agreements*

[WASHINGTON,] March 29, 1938.

Participants: Mr. César Gorri, Chargé d'Affaires of Uruguay  
Mr. Darlington  
Mr. Daniels  
Mr. Sappington

Mr. Gorri stated that the Uruguayan Government was prepared to negotiate a trade agreement with the United States based upon

<sup>27</sup> *Congressional Record*, vol. 83, pt. 9, appendix, p. 484.

the unconditional most-favored-nation principle, and wished an accord on exchange control included in such an agreement. He also stated that his Government desired that the sanitary regulations (under Section 306 (a) of the Tariff Act of 1930)<sup>28</sup> be changed to permit the importation into the United States of chilled and frozen meats from Uruguay; furthermore, it requested concessions in the United States tariff on preserved meats, hides, wool, flaxseed, tallow, and dairy products.

Mr. Gorri was informed that in general sanitary measures, such as the requirements of Section 306 (a) of the Tariff Act of 1930, were not dealt with in trade agreements; however, he would be advised, after it had been ascertained, of the existing situation under the provision of Section 306 (a) as it affects imports from Uruguay. Mr. Gorri was also informed, with respect to the requested duty concessions, that this Government would take into account, in connection with possible trade-agreement negotiations, all products of which Uruguay is an important supplier to the American market.

This Government's position in regard to the application of the most-favored-nation principle to the administration of exchange control was outlined to Mr. Gorri, and it was decided, with Mr. Gorri's concurrence, that a memorandum setting forth that position would be prepared and handed him.

It was agreed that Mr. Gorri would return to the Department on Thursday, March 31, for further discussion of the basis for a trade agreement.

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611.3331/170

*The Department of State to the Uruguayan Legation*

MEMORANDUM

The Government of the United States, as stated in its memorandum of January 24, 1938, is happy to join with the Government of Uruguay in exploring the possibility of entering into negotiations for a trade agreement, and is gratified to learn that the Government of Uruguay would be prepared to negotiate on the basis of the unconditional most-favored-nation principle.

The commercial policy of the United States is based upon the unconditional most-favored-nation principle, applied to all forms of control of trade and of payments therefor. Before the United States Government would be prepared to contemplate entering into trade-agreement negotiations, it would expect to receive definite assurance that the Uruguayan Government would apply this principle to its

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<sup>28</sup> Approved June 17, 1930; 46 Stat. 590, 689.

commercial relations with the United States in a similarly unrestricted manner.

The application of the unconditional most-favored-nation principle to commercial payments, in the opinion of the United States, means that if either Government establishes or maintains directly or indirectly any form of control of the means of international payment it will not use this control in any manner, direct or indirect, to regulate or influence the source of its imports to the detriment of the trade of the other country. It also means that the complete freedom from discrimination thus envisaged will not be subject to any condition or requirement such, for example, as the requirement that the treatment accorded by one country to imports from the other in respect of foreign exchange shall depend upon the amount of exchange created by the latter country through its merchandise imports from the former or otherwise.

Thus, in a trade agreement, the Governments of both countries would agree in detailed terms that each country would accord to the other treatment no less favorable than that accorded to any third country in respect of the allotments and the rates of the exchange made available for the payment of merchandise imports as well as in respect of all taxes and charges imposed in connection with such transactions.

The Government of the United States would welcome an expression of the views of the Uruguayan Government in this matter.

MARCH 31, 1938.

611.8331/196

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*Memorandum of Conversation, by Mr. James C. Sappington of  
the Division of Trade Agreements*

[WASHINGTON,] June 22, 1938.

Participants: Mr. Richling, the Uruguayan Minister  
Mr. Sayre  
Mr. Duggan  
Mr. Sappington

Mr. Sayre referred to previous informal preliminary conversations relative to a possible trade agreement with Uruguay and to the fact, as then discussed, that the similarity between Uruguay's and Argentina's export trade with the United States rendered desirable simultaneous negotiations with both countries. Mr. Richling concurred and indicated his belief that simultaneous negotiations would also be desired by his Government.

Mr. Sayre then informed the Minister that decision had been reached that negotiations could be undertaken with Australia, Argentina and Uruguay provided substantial agreement could be reached

with those countries on the essential provisions of a trade agreement and the concessions to be contained therein before July 7 by which date, if such agreement were reached, public announcement of intention to negotiate would be issued. It was further explained that the agreements would have to be signed and published by early September, otherwise public announcement that negotiations had terminated would have to be made as it was impossible to continue active negotiations later into the coming fall; for this reason substantial agreement as to the essentials of the trade agreement would be necessary before July 7 as this Government did not wish to issue public notice in regard to negotiations unless there was a strong probability that they could be concluded by early September.

Mr. Sayre stressed the strictly confidential nature of this Government's proposal (as contained in the attached memorandum<sup>29</sup> which was handed Mr. Richling), and stated that of course the indicated possible concessions to Uruguay could not be taken as a firm commitment in view of legal requirements with respect to hearings in this country. Mr. Richling was also informed that, as stated in the memorandum, in the event agreement could not be reached with Argentina in order to permit a public announcement of intention to negotiate a trade agreement with that country by July 7, the question of issuing an announcement by that date in regard to Uruguay would have to be reconsidered.

Mr. Sayre referred to a possible plan, advanced by Mr. Richling in a conversation with Mr. Welles early in May, to effect the clearance of United States merchandise which had accumulated in Uruguayan customs houses because of the non-allocation of exchange by the Uruguayan Government for the payment of such merchandise. This plan contemplated a loan by the Export-Import Bank to the Uruguayan Government to be secured by earmarking a part of the Uruguay gold reserve and to be used for the payment for the accumulated merchandise. Mr. Richling stated that he did not know what his Government would think of this plan. Mr. Sayre said that this Government preferred the exchange formula embodied in the attached memorandum as a more desirable method of furthering the expansion of trade.

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611.3331/189a

*The Department of State to the Uruguayan Legation*

MEMORANDUM

As the Government of Uruguay is aware, the Government of the United States has entertained the hope of negotiating a trade agree-

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<sup>29</sup> *Infra.*



ment with Uruguay, at the earliest practicable opportunity. It has expressed the view that, because of the similarity in important respects between the export trade of Uruguay and Argentina with the United States, the negotiation of trade agreements between the United States and Uruguay and between the United States and Argentina should take place simultaneously.

Recent developments have made it possible for the Government of the United States to consider giving early public announcement of intention to negotiate trade agreements with the Government of Uruguay and with the Government of Argentina. However, circumstances are such that in the event negotiations should not be completed and the agreements signed and published by early September it would be necessary publicly to announce the unsuccessful termination of negotiations.

To provide time for completing the procedure required by United States law, the announcement of intention to negotiate would have to be made not later than July 7, 1938. Since it is obviously undesirable that negotiations be publicly announced unless there is assurance that they can be brought to a successful conclusion, it is indispensable that substantial agreement be reached on the essential provisions of an agreement with Uruguay prior to public announcement, that is to say, before July 7.

Previous discussions have indicated agreement between the two Governments that a trade agreement between them should be based on the unconditional most-favored-nation principle applied to all forms of trade and payments control. In pursuance of this principle the Government of the United States in its memorandum of March 31, 1938 expressed the view that such an agreement should provide the assurance in detailed terms that both Governments would accord to the other treatment no less favorable than that accorded to any third country in respect of the allotments and the rates of the exchange made available for the payment of merchandise imports as well as in respect of all taxes and charges imposed in connection with such transactions. The following formula, which the Government of the United States believes will meet the essential requirements of both countries, is offered for the consideration of the Government of Uruguay:

This proposal is that the trade agreement embody provisions whereby Uruguay would undertake to make available for imports of merchandise from the United States a proportion of the total exchange made available in any period (e. g., calendar year, quarter year, or calendar month) for merchandise imports into Uruguay from all sources, which shall not be less than the proportion of Uruguay's total merchandise imports supplied by the United States in a previous representative period. The following discussion and the attached draft provisions will indicate more clearly the nature of this proposal.

Taking as base periods 1) the five-year period 1927-1931, which is the five-year period preceding the establishment of exchange control in Uruguay, and 2) the three-year period 1930-1932, which is partly prior and partly subsequent to the establishment of exchange control in Uruguay, on the basis of such information as is available to this Government, the application of the proportional formula may be illustrated as follows:

1. On the basis of "official-valuation" figures for the period 1927-1931, the United States supplied 27.2 percent of total merchandise imports into Uruguay. It is understood that in 1936 a total of approximately £9,931,000 was available for merchandise imports into Uruguay from all sources. Of that amount it is understood that merchandise imports into Uruguay from the United States utilized approximately 18.34 percent or £1,921,000. Had the proportional formula been in effect in 1936, with the period 1927-1931 as the base period, there would have been made available for merchandise imports into Uruguay from the United States, on the basis of the same figures, exchange in the amount of £2,701,252 (i. e., 27.2 percent of £9,931,000).

2. During the period 1930-1932, imports from the United States constituted 19.5 percent of total imports into Uruguay on the basis of "official-valuation" figures. Applying this percentage to the total exchange understood to have been available for merchandise imports into Uruguay from all sources in 1936, that is, £9,931,000, merchandise imports from the United States would have received in that year under the proportional formula with the period 1930-1932 as the base period; £1,936,545. This amount is somewhat larger than the amount, £1,821,000, understood to have been actually utilized for the payment of such imports, but is £764,687 less than the amount (£2,701,232, or 27.2 percent of £9,931,000) which would have resulted on the basis of the period 1927-1931.

In the absence of information as to the amount of exchange which it is estimated will be available for total merchandise imports into Uruguay in 1938, it is impossible to determine the amount of exchange which the proportional formula would assure for the payment of merchandise imports into Uruguay from the United States in 1938, using the percentage resulting from the import figures for any previous period.

Although it is necessary that agreement be reached in regard to the substance of the exchange provisions as set forth in the attached draft article before July 7, agreement as to the precise representative base period for the purpose of the proportional formula need not be reached until after the issuance of the public announcement of intention to negotiate a trade agreement with Uruguay.

In addition to agreement in regard to exchange treatment, it is necessary that agreement be reached before July 7 on the substance of

the other general provisions and on the substance of the concessions to be granted by the United States and Uruguay, respectively. It will be noted in the attached List B that the Government of the United States requests that the products listed therein be exempt from the requirement that part of the customs charges on such products be paid in terms of the gold peso. With respect to products which are not the subject of a specific duty concession in the trade agreement, the Government of the United States would expect the assurance that the conversion rate used in calculating that part of the customs charges payable in terms of the gold peso on any such product imported from the United States would be no less favorable than the conversion rate used for the same purpose in regard to the like product from any other country.

Attached are

(1) Draft article embodying the proportional formula in regard to exchange;<sup>30</sup>

(2) Copy of the standard general provisions<sup>31</sup> which the Government of the United States desires to have included in its trade agreements;

(3) List A,<sup>30</sup> specifying the proposed concessions to be granted to Uruguay;\* the items in this list represent approximately 96 percent of total United States imports from Uruguay in 1936; and

(4) List B,<sup>30</sup> specifying the proposed concessions to be granted to the United States; items marked with an asterisk are those to which the Government of the United States attaches particular importance; they represent approximately 62 percent of total Uruguayan imports from the United States in 1936.

In the event that it should be impossible to issue public announcement of intention to negotiate a trade agreement with Argentina by July 7, 1938, it would be necessary for the Government of the United States to reconsider the question of issuing public announcement of intention to negotiate a trade agreement with Uruguay.

It will be apparent that very prompt action is essential. The Government of the United States would appreciate having an indication of the attitude of the Government of Uruguay in regard to these proposals at the earliest possible date, since the time for considering any points of difference between the positions of the two Governments is so limited.

JUNE 22, 1938.

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<sup>30</sup> Not printed.

<sup>31</sup> Not found in Department files. These were presumably the general provisions of February 21, 1938, concerning which see footnote 18, p. 846.

\* It is understood, of course, that these proposals must be regarded as tentative pending consideration of views of interested persons as required by United States law. [Footnote in the original.]

611.3331/192

*Memorandum of Conversation, by the Chief of the Division  
of the American Republics (Duggan)*

[WASHINGTON,] July 7, 1938.

The Uruguayan Minister telephoned me at one o'clock today to state that he had not yet received any word from his Government with regard to the trade agreement proposal. The Minister stated that he had made it clear beyond doubt that a reply would have to be forthcoming by today, so that he felt confident that he would receive a message sometime during the remainder of the day.

I told the Minister not to hesitate to get in touch with me regardless of the time he received the message.

LAURENCE DUGGAN

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611.3331/193

*Memorandum by the Chief of the Division of the American Republics  
(Duggan) of a Conversation With the Uruguayan Minister  
(Richling)*

[WASHINGTON,] July 9, 1938.

The Minister permitted me to read a telegram which he had just received from his Government to the effect that the Minister's letter dated June 24 transmitting the trade agreement proposal of this Government had arrived in Montevideo on July 5, with the result that there was insufficient time to study the proposal and give a reply by July 7. His Government requested the Minister to ask for an extension of time in order that it might study the proposal carefully.

After consulting Mr. Hawkins, I informed the Minister that the very latest date for a reply would be Wednesday, July 13.

The Minister then discussed at some length exactly what the Department would consider as a satisfactory reply. He said that he thought it would be difficult for his Government to give its final decision with respect to the changes in duty requested on American products entering Uruguay. He said that in replying to the telegram received from his Government he wanted to add as much as possible and he was thinking of including a paragraph to the effect that what this Government wanted was knowledge that the Uruguayan Government was prepared to proceed to negotiate the agreement without important deviation from the bases set forth in the Department's memorandum. I told the Minister that I thought he had caught what the Department was striving to obtain from the Uruguayan Government, but urged him to impress upon his Government the necessity for being as specific and definite in its reply as

possible, because it would be very difficult, if not impossible, to carry on any further negotiations regarding the bases of the agreement after the 13th of July.

LAURENCE DUGGAN

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611.3331/201

*The Minister in Uruguay (Dawson) to the Secretary of State*

No. 301

MONTEVIDEO, July 29, 1938.

[Received August 8.]

SIR: I have the honor to refer to my telegram No. 55 of today<sup>33</sup> stating that the Minister of Finance, Dr. Charlone,<sup>34</sup> had told me last evening that press reports concerning a recent discussion in the Cabinet of trade relations with the United States may have conveyed a wrong impression and that, while it has not been found possible to accept our Government's recent proposal, this does not mean that conversations looking to an eventual trade agreement will not be continued. Dr. Charlone assured me of his Government's interest in further negotiations and its desire of reaching a mutually satisfactory agreement and he expressed his regret that misleading reports had appeared.

Our brief conversation took place at a reception at the Peruvian Legation and at the time the only press report with which I could connect Dr. Charlone's remarks was a statement published in yesterday morning's press summarizing a recent Cabinet meeting and containing the following paragraph:

The Minister of Foreign Relations made known the terms in which the project of a commercial agreement had been submitted by the United States to our Government and with respect to which, from the technical studies made, the Ministry has had to decide to recommend that it not be approved for the moment.

Today's press contains a cable despatch from Washington to the effect that at his press conference Secretary Hull had been questioned touching a report that the Uruguayan Foreign Office had recommended the "rejection of trade-agreement negotiations." The Secretary is quoted as having replied that the situation was not very clear and that it was not known officially whether the reported decision of the Uruguayan Minister of Foreign Relations referred to the recent proposal or was more general in character. The despatch added that State Department officials believed that the decision concerned only the proposal and "will not be an obstacle to negotiations for the conclusion of a trade agreement."

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<sup>33</sup> Not printed.

<sup>34</sup> César Charlone, appointed Minister for Finance in May 1938.

This Washington despatch would seem to indicate that misleading reports have been published in the American press and it may well be that Dr. Charlone, who has many friends in the United States, had cable advices to this effect before he spoke with me yesterday. The local press has been rechecked carefully and the only version found is that quoted above.

*Conversations with President and Minister of Foreign Relations.*

Later yesterday evening, I had an opportunity for brief conversations with President Baldomir<sup>35</sup> and the Minister of Foreign Relations, Dr. Guani,<sup>36</sup> at a dinner at the French Legation.

In his talk with me, the President brought up himself the question of our trade relations and remarked that "we are displeased (*disgustados*)" with the failure of the United States to purchase Uruguayan goods and provide exchange for American imports. (From his tone and his further remarks, I do not believe that the President used intentionally as strong a word as "*disgustado*" or that he meant to convey anything more than disappointment or concern.) In reply, I pointed out to the President that, unlike certain European Governments, our Government is not in a position to dictate to importers as to where they shall buy and cannot enter into commitments for the purchase of given quantities of Uruguayan or other products. I said that in the past the United States had been an excellent customer for wool and other commodities, to which the President replied that unfortunately it was not a steady customer. I told him that a fundamental difficulty seemed to be the difference between our commercial policy, based on the freedom of trade and the principles proclaimed at Montevideo, and the Uruguayan policy of bilateral trade. Although quite brief, our conversation afforded me an opportunity to tell the President that we feel that our policy is the one best calculated to restore international trade, whereas the bilateral system is restrictive, born of the depression, and more likely to prolong the ill effects of the depression as far as international commerce is concerned. As I had expected, the President said that Uruguay had been forced to adopt the bilateral system. He listened to my remarks very attentively and, while I cannot say what impression they may have made upon him, I believe that they were timely since he has probably not had much opportunity to consider commercial policy and trade relations.

During our conversation, the Minister of Foreign Relations joined us for a moment and said that he hoped to talk with me concerning the whole subject before my departure on leave. I reverted to his statement later in the evening and said that I would be delighted to discuss trade relations with him at any time. He first suggested a

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<sup>35</sup> Alfredo Baldomir, inaugurated as President on June 19, 1938.

<sup>36</sup> Alberto Guani, appointed Minister for Foreign Relations, June 22, 1938.

day early next week but remarked later that he expected to explain our recent proposal in greater detail to the Cabinet on August 3 and that it might be better if he saw me after the meeting. Dr. Guani has been in office only a few weeks and he has perhaps not been able to devote very much time to commercial matters. It seemed to me distinctly desirable that, if practicable, I have an opportunity to discuss the situation and to acquaint him with our position before the next Cabinet meeting. I suggested this to him and, while he gave me no definite appointment, I hope very much that he will receive me early in the coming week.

Respectfully yours,

WILLIAM DAWSON

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611.3331/204

*The Minister in Uruguay (Dawson) to the Secretary of State*

No. 307

MONTEVIDEO, August 2, 1938.

[Received August 15.]

SIR: I have the honor to refer to my despatch No. 301 of July 29, 1938, concerning trade relations with Uruguay and recent conversations with President Baldomir and the Ministers of Foreign Relations and Finance. In the closing paragraph of my despatch, I stated that I hoped to have a further conversation within a few days with the Minister of Foreign Relations.

Dr. Guani gave me an appointment yesterday afternoon when I had half-an-hour's talk with him.

He opened the interview with a reference to our recent trade-agreement proposal which had, he said, reached him only on July 4. He remarked that it was, of course, very difficult to study and decide upon so important a matter in the short time suggested, adding that he realized that there were special circumstances and that he was neither criticizing nor complaining. He went on to say that he and the other officials concerned had examined the proposal very carefully and that, while they had been unable to accept it, this did not mean that the Uruguayan Government and he personally were not very desirous of continuing conversations and reaching an agreement with the United States. He said that the American market meant much more to Uruguay than the Uruguayan market to the United States and that for himself he was much more interested in mutually satisfactory commercial relations with the United States than with a number of other countries. As respects specific points of our proposal, the Minister said that it was very much regretted that no concession in the duty on canned meat had been envisaged, as this was a product of the greatest interest to Uruguay. I mentioned wool, to which he replied that the Uruguayan experts felt that concessions on

wool were of considerably less value since wool sales to the United States seemed to be affected much less by import duties than by current and varying market conditions. With regard to our proportional formula for exchange, Dr. Guani said that his Government could not possibly accept it for the simple reason that exchange would not be available unless provided by American purchases, Uruguay's hands being tied by its treaties with other countries and it being impossible to apply to imports from the United States exchange created by exports to Great Britain, Germany, and other countries.

This led naturally to a discussion of the fundamental difficulty resulting from the divergent commercial policies followed by the United States and Uruguay—a difficulty which Dr. Guani said he fully realized. In so far as was possible in the time available, I endeavored to acquaint the Minister with our aims and with our views as respects the need for the restoration and freedom of international trade. In the hope that my remarks might make some impression, I dwelt on the restrictive nature of the bilateral system and its tendency to prolong and aggravate the effects of emergency measures born of the depression. Dr. Guani himself had already remarked that it was to be hoped that sooner or later the world would return to the state of affairs existing before the depression. I pointed out in particular that the bilateral system if carried to its logical conclusion meant barter and a balanced interchange of goods with each individual country and that such a system could not in the long run suit countries like Uruguay which must of necessity export much more than they import in order to maintain their balance of payments. I pointed out also that under present conditions Uruguayan importers were being prevented from buying in the United States agricultural machinery and many other articles which they prefer to purchase from us and that, as respects exchange control, it was resulting in artificially high prices for Uruguayan products which were tending to restrict exports. I suggested to the Minister that I had hoped that with his great experience and knowledge of international affairs he would review Uruguay's whole commercial policy. He said that he had appointed a committee in the Foreign Office to study the matter. He intimated at the same time that commercial policy was largely in the hands of the Minister of Finance, Dr. Charlone.

At the conclusion of our interview and also repeatedly during its course, Dr. Guani assured me of his keen interest in reaching a satisfactory agreement with the United States. He said that I should always find him—or any one else who might be in the Foreign Office—very well disposed and that it was to be hoped that by the end of the year conditions would be more propitious as respects particularly an anticipated increase in Uruguayan exports to the United States.



I was interested in Dr. Guani's reference to "any one else who might be in the Foreign Office." It is generally believed that he would have preferred further diplomatic service in Europe to a Cabinet post and several of my colleagues predict that he will not remain very long at Montevideo.

Respectfully yours,

WILLIAM DAWSON

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611.3331/206

*The Minister in Uruguay (Dawson) to the Secretary of State*

No. 318

MONTEVIDEO, August 11, 1938.

[Received August 22.]

SIR: This morning's press contains a summary of what appears to be a very important statement regarding trade policy made yesterday at a Cabinet meeting by the Uruguayan Minister of Finance, Dr. César Charlone.

From this statement, which is reported to have been unanimously approved by the Cabinet, it would appear that Dr. Charlone and the Government are committed not only to the maintenance but also to the further extension and reinforcement of the bilateral policy and system of trade and exchange control which have had such unfortunate repercussions as respects American trade with Uruguay.

The press reports that Dr. Charlone's statement will be published officially and as soon as the official text is available it will be forwarded to the Department. In the meantime, there is furnished the following summary, based on today's press reports, which has been prepared by Mr. Reed:

The Minister stated that the Economic Readjustment Law of November 9, 1934,<sup>37</sup> (which established the import quota system) has made it possible for Uruguay to obtain an equilibrium in its balance of payments without resorting to foreign loans. The treaties of commerce and agreements regarding payments already signed cover at present more than 75% of Uruguay's foreign commercial activities. He declared that this figure demonstrates that, far from its being possible to abandon the system of compensation in order to return to the previous standard of a free economy, Uruguay must persevere in the policy followed and reach total compensation, if possible. He added that the system in question is susceptible of progressive perfecting, with which the Government is now occupied and which recently resulted in the unification and coordination of the controls of importation and exportation. In the same manner that the Government, before beginning each fiscal year, adjusts its receipts and ex-

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<sup>37</sup> Uruguay, *Registro Nacional de Leyes, Decretos y Otros Documentos*, 1934 (Montevideo, 1943), p. 1479.

penditures in the budget, there must be obtained in interchange (commercial) an adjustment of obligations in foreign money to the normal receipts which are produced for the country by its exports and other items in the balance of payments. This method has already begun to be applied for the year 1938, the probable production of foreign exchange and the form in which it can be used to meet the financial services of the Government, the Municipality of Montevideo, private enterprises and the payment of imports having been estimated in advance. It is calculated that the foreign exchange originated by the sale of products subject to control will amount to pesos 78,238,080, to which should be added 15,200,000 pesos from free exchange, in which are liquidated some balances of exportation, tourists funds, etc. In all, the probable revenues (foreign exchange available) should amount for 1938 to 93,500,000 pesos, according to very conservative calculations, which allow for the sale of most of the coming wool clip in 1939 instead of this year. With these revenues the Minister proposes to meet the financial services above referred to, which he estimates at 14,668,000 pesos, there remaining available 77,307,200 pesos, or somewhat more than £10,000,000.

With reference to imports covered by free exchange, the Minister reported that 70% of the amount mentioned above (15,200,000 pesos) is for imports authorized and paid for prior to June 30 last, and that free exchange will only be authorized during the remainder of the year for merchandise materially impossible to compensate by export business.

#### *Maintenance of Present Exchange Policy.*

Of great importance for American business is the statement then made by the Minister that the same policy will be followed for the year 1939 and subsequently, that is, the advance determination each fiscal year of the probable receipts and requirements in foreign exchange. Simultaneously with the Budget, the appropriate offices will work out a preliminary balance of the receipts and payments of interchange (commercial).

#### *Stabilization Fund.*

The Minister emphasized the importance of the Exchange Fund (stabilization fund) which advances foreign exchange in moments of scarcity and recovers them in the opposite phase of the annual cycle. The action of this mechanism and the prior determination of the annual figure of importation can afford, in a policy of directed economy, the stability to which import business has a right. He mentioned that this fund amounted to 23,294,638.40 pesos in gold and foreign currencies, excluding foreign debt bonds in the possession of the bank. These reserves are to be defended and increased, especially to recover

advances, amounting to 14,688,000 pesos, granted to countries which had debit balances with Uruguay as a result of difficulties last year in placing the wool clip, the equivalent of which is represented by the still unsold balance of wool, hides, wheat, etc.

*Conclusions of the Minister of Finance.*

The conclusions of the Minister of Finance were as follows (translation) :

1. The country should arrange to subject the amount of its importations to the normal production of foreign exchange after the deduction of the public and private financial services.

2. The reserves of gold and exchange of the Exchange Fund (stabilization fund) must be protected and increased to the greatest possible extent, for which purpose arrangements should be made to compensate with the greatest amplitude the purchases abroad and other debit items of the balance of payments, with sales of our products.

3. There can and must be sought a more rational application of the exchange available, by establishing import quotas for those articles or merchandise, the nature or present volume of which may not be in accordance with the real needs of consumption. The same line of conduct should be observed with regard to imported articles similar to those whose domestic production is now developing, even to prohibiting their importation when the progress acquired by our industry permits it to cover the total needs of domestic consumption.

4. In order to give interchange transactions (commercial) the desirable stability, it is advisable to prepare annual plans prior to the beginning of each fiscal year. And for that purpose it is necessary that there be a close contact of the Bank of the Republic with the Executive Power, since, although by virtue of the laws in force, the application of those principles belongs to the State Bank, nobody doubts that this institution exercises such powers by delegation, as originally they form part of economic policy, the general objectives of which must be outlined by the Government of the Nation as the representative of collective interests.

Respectfully yours,

WILLIAM DAWSON

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611.3331/216 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, October 14, 1938—5 p. m.

[Received 5 : 20 p. m.]

90. Following the interview with the Minister of Foreign Affairs reported in my telegram No. 89, October 14, 1 p. m.,<sup>38</sup> the Minister of Foreign Affairs brought up the question of commercial relations, stating that his Government was interested in renewing conversations with respect to commercial treaty with the United States. I explained

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<sup>38</sup> Not printed.

to him that we were on the eve of elections and he then said that probably by January next his Government might renew the conversations. He said that he was very anxious to take measures which would improve our trade and asked me to give him any statements which I might have available setting forth my Government's trade policy as contrasted with the bilateral system, explaining that he desired to obtain a thorough understanding of our point of view in order to see whether the Uruguayan policy could not be harmonized at least partially therewith. I shall provide the Minister with a translation of the Department's press release on that subject of April 1, 1935.<sup>39</sup> If the Department considers that some other statement or recent speech should also be furnished please instruct me accordingly.

REED

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611.3331/216 : Telegram

*The Secretary of State to the Chargé in Uruguay (Reed)*

WASHINGTON, October 18, 1938—7 p. m.

50. Your 90, October 14, 5 p. m. The Department is sending you by air pouch material believed to cover subject more comprehensively than release of April 1, 1935.

As you probably know, in view of the closely related nature of the questions which would arise in trade-agreement negotiations with Uruguay and Argentina, it would probably be difficult to negotiate with Uruguay unless negotiations with Argentina were carried on concurrently. Studies on trade-agreement possibilities with Argentina are continuing and you will be advised of any definite developments. In the meantime you should continue, in answering inquiries by Uruguayan officials, to avoid definitely conveying the idea of trade-agreement possibilities at this time, while of course not discouraging those officials as to our general desire to conclude an agreement.

HULL

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611.3331/222b

*The Acting Secretary of State to the Chargé in Uruguay (Reed)*

No. 88

WASHINGTON, December 3, 1938.

SIR: We are sending Mr. William A. Fowler, Assistant Chief, Division of Trade Agreements, and Mr. James C. Sappington, 3d, Economic Analyst in the same division, to Buenos Aires and Montevideo for the purpose of obtaining information in regard to various matters, largely of a technical nature, concerning our trade relations with Argentina and Uruguay, particularly matters of exchange.

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<sup>39</sup> Department of State, *Press Releases*, April 6, 1935, p. 212.

They will sail from New York on December 3, 1938, on the S. S. *Uruguay*, accompanied by their wives, and they are under instructions to return on the S. S. *Brazil*, scheduled to sail from Buenos Aires on January 21, 1939.

Upon arrival at Montevideo, they will, of course, establish contact with the Legation and will wish to discuss the current exchange situation and other matters with officials of the Legation and of the Consulate General before talking with the appropriate Uruguayan officials.

While in Montevideo, they will naturally explore further the possibility of finding a mutually satisfactory basis for trade-agreement negotiations. However, for reasons which you will appreciate, we wish so far as possible to avoid any publicity concerning the trip which Mr. Fowler and Mr. Sappington are making or their activities while in Buenos Aires or Montevideo. If the representatives of the press should inquire as to the purpose of their trip, you should inform them merely that two trade experts of the Department of State are being sent to Buenos Aires and Montevideo for a short time for the purpose stated in the first sentence of this instruction. If the question is asked whether this has anything to do with trade-agreement negotiations, the answer might be that some of the information obtained by these officers doubtless would assist in determining whether trade-agreement negotiations are feasible. Please make suitable arrangements with the appropriate Uruguayan authorities with regard to the avoidance of publicity.

Mr. Fowler and Mr. Sappington will communicate with the Legation from Buenos Aires as to the time of their arrival in Montevideo, and you are requested to afford all possible assistance to them in connection with their special mission.

Very truly yours,

SUMNER WELLES

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**EFFORTS OF THE DEPARTMENT OF STATE TO SECURE EQUITABLE TREATMENT FOR AMERICAN INTERESTS WITH RESPECT TO URUGUAYAN EXCHANGE RESTRICTIONS<sup>40</sup>**

633.116/62 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, January 10 [11<sup>?</sup>], 1938—3 p. m.

[Received 4:35 p. m.]

3. Exchange control authorities have fixed import quotas for the month of January only and the United States is without quota al-

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<sup>40</sup> For previous correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 957 ff. 256870—56—59

though automobiles for which importers hold previous authorizations may be imported with free exchange. Importers of American goods have been patiently waiting for more than two months in the hope of resuming their interrupted business but importation from the United States is completely demoralized because of nonassignment of quota and many complaints are now being received by the Legation and Consulate General.

I have today discussed the situation separately with the Vice President of the Bank of the Republic<sup>41</sup> and with the manager of the exchange control<sup>42</sup> on which both of whom stated definitely that no quota would be assigned to the United States until its purchases of Uruguayan goods increased. They declare that dollar exchange purchases and sales including debt service leave the United States with an approximately balanced account for 1937 and decline to grant quota until Uruguay obtains a favorable balance with us.

I pointed out the undesirability of injuring trade by stoppages of imports undoubtedly temporary in view of the fact that the United States is second in importance among Uruguay's customers but obtained no satisfaction.

Should I make immediate representations to the Ministry of Foreign Affairs or would the Department prefer to await a complaint from the American Chamber of Commerce in Uruguay? The Minister of Finance is out of town and I hope to see him tomorrow or Thursday but do not expect any results as he is only temporary.

REED

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633.116/63 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, January 14, 1938—3 p. m.

[Received January 14—2:35 p. m.]

4. My No. 3, January 11 [10<sup>h</sup>], 3 p. m. The Minister of Finance<sup>43</sup> received me today and agreed regarding undesirability of stopping imports. He was unable to suggest any solution of the problem but promised to find one and to inform me as soon as possible.

The American Chamber of Commerce has addressed a communication to the Legation pointing out the urgency of bringing pressure to bear on the Uruguayan Government in order to prevent the closing down of many importing firms, stating that no permits are now being granted even for goods in customhouse and urging strong representations with threat of reprisals.

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<sup>41</sup> Vicente F. Costa.

<sup>42</sup> Fermín Silveira Zorzi.

<sup>43</sup> Raúl Jude.

Complaints received are increasing in numbers. Stoppage of importation is complete, free exchange being available only for imports of automobiles previously authorized.

REED

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833.5151/459 : Telegram

*The Secretary of State to the Chargé in Uruguay (Reed)*

WASHINGTON, January 14, 1938—4 p. m.

3. Your telegram no. 3, January 10, 3 p. m. Please seek an early interview with the Minister for Foreign Affairs<sup>44</sup> and express to him the views of this Government along the following lines :

The Government of the United States has been caused serious concern by the latest developments in the administration of the Uruguayan exchange control. If, as seems to be the case, the Government of Uruguay through official action intends to permit the importation into Uruguay of goods from certain foreign countries while at the same time preventing importation of similar goods from the United States, this Government is reluctantly obliged to protest. As is well known, Uruguayan exports of all categories are accorded access to the markets of the United States under conditions as favorable as those accorded to goods from any foreign country (except Cuba) ; and the United States has traditionally been an important market for Uruguayan products.

As is well known, the Government of the United States is desirous of strengthening still further the relations of commerce and friendship which have traditionally united the two countries. It is for this reason that this Government earnestly hopes that such official action as the Government of Uruguay may take in regulating its foreign trade may be directed towards furthering, rather than discouraging, trade between the two countries.

The Department believes that your action in this matter should be independent of any action which may be taken by the American Chamber of Commerce in Uruguay, although the advantages of your keeping in close touch with that chamber are fully realized.

HULL

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633.116/67

*The Chargé in Uruguay (Reed) to the Secretary of State*

No. 139

MONTEVIDEO, January 14, 1938.

[Received January 22.]

SIR: I have the honor to refer to my despatch No. 138 of January 13, 1938,<sup>45</sup> entitled "Complete Prohibition of American Imports into

<sup>44</sup> José Espalter.

<sup>45</sup> Not printed.

Uruguay", and to report that I have today had an interview with Dr. Raúl Jude, Acting Minister of Finance and of the Interior, who has been away most of the week in connection with the airplane accident on the Uruguayan frontier in which the son of the President of Argentina lost his life. I explained to the Minister the serious position of the importers of American goods, and handed him a brief memorandum showing the statistical position of the United States in Uruguay's trade, according to three different statistics, Uruguayan Customs, United States Department of Commerce, and those based on the declared exports compiled by the Consulate General in Montevideo. He was not aware of the complete stoppage of importing from the United States, and agreed with me that means ought to be found to promptly terminate this situation. I made it clear that I had come to see him without instructions from my Government, in the hope that it might be possible to settle the difficulty before the American Government should take any action which might affect the commercial relations of our two countries. The Minister was in entire sympathy with my point of view, and promised to find a way out of the present situation. He summoned the General Manager of the Bank of the Republic<sup>46</sup> for an immediate discussion of the matter, and promised to inform me at once when he had decided what action to take. This interview was briefly reported in my telegram No. 4 of today.

Respectfully yours,

LESLIE E. REED

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833.5151/460 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, January 15, 1938—10 a. m.

[Received January 15—9 : 05 a. m.]

5. Unless otherwise instructed I shall defer compliance with Department's telegram No. 3, January 14, 4 p. m., until 19th in hope of action by Minister of Finance.

REED

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833.5151/461 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, January 19, 1938—3 p. m.

[Received 4 : 35 p. m.]

7. My No. 5, January 15, 10 a. m. I obtained another interview with the Minister of Finance late yesterday when he showed me a state-

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<sup>46</sup> Raúl Danerl.



ment of the Uruguayan balance of payments with the United States at end of 1937 unfavorable to Uruguay by \$6,000,000 of which over 4,000,000 was debt service. He declared that this unfavorable balance had been paid for from the favorable balances of other countries and that as they were now demanding more exchange he did not see how exchange for American imports could be obtained. He assured me, however, that he had not finished considering the matter and that he still hoped to evolve a solution which would permit the resumption of importing from the United States.

I have today seen the Minister for Foreign Affairs and complied with the Department's telegraphic instructions No. 3 of January 14, 4 p. m. He said that he considered the recent measures too severe and stated that a decree must be issued permitting imports from the United States. He added that he would inform the Minister of Finance of the interview which I confirmed by *aide-mémoire*.<sup>47</sup>

Uruguayan trade statistics for many years past show that imports from Great Britain were usually less than one-half the value of exports to that country. Uruguay's balance of payments with Great Britain in recent years is unknown but it is believed to be favorable. The Minister of Finance indicated to me that the Uruguayan quota policy was the result of pressure from Great Britain and other nations and hinted that representations by the United States Government to the British Government would be welcomed by Uruguay if they should liberate for imports of American goods part of Uruguay's favorable balance with Great Britain. Moving picture films continue to enter receiving special consideration.

REED

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833.5151/462: Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, January 21, 1938—11 a. m.

[Received January 21—9:45 a. m.]

8. Import quotas of 11 countries have been increased by 50 per cent and British by 250 per cent but United States still excluded. Exchange Control says value of American merchandise blocked in Montevideo customhouse without quota is 1½ million dollars.

REED

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<sup>47</sup> *Aide-mémoire* dated January 19; copy transmitted to the Department by the Chargé in Uruguay in his despatch No. 145, January 20, not printed. The *aide-mémoire* followed the wording of the Department's telegram No. 3, January 14, 4 p. m., p. 925.

833.5151/464 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, January 26, 1938—10 a. m.

[Received 10:45 a. m.]

9. My No. 7, January 19, 3 p. m.; No. 8, January 21, 11 a. m. and despatch No. 145, January 20.<sup>48</sup> Board of Directors of American Chamber of Commerce in Uruguay held meeting last night at which I reported my interviews with the Ministries of Finance and Foreign Relations. No publicity has yet been given in local press to the position of American trade nor to my representations and the directors now feel that publicity is desirable. They are publishing report of meeting and suggest desirability of statement to Washington press by the Secretary of State regarding the protest made and the Department's attitude toward Uruguay's commercial policy. If this suggestion is approved the statement might be made as soon as possible to avoid coinciding with arrival of Minister Dawson<sup>49</sup> February 1st.

Conversation yesterday with acting president of the Bank of the Republic indicates intention to continue strict enforcement of quota system. Foreign exchange available is apparently entirely allocated to countries with trade agreements or for recent government expenditures. Importation of American goods is likely to receive permanent damage resulting from uncertainty of maintaining stocks under quota system.

Richling's<sup>50</sup> statement that negotiations for commercial treaty would follow those with Argentina has been interpreted by part of local press as indicating early negotiations. *La Mañana* today refers to the initiation of negotiations from one moment to another for the purpose of increasing commerce with the United States which has recently been rather paralyzed as the result of economic disturbances which have affected the United States.

REED

633.116/68a : Telegram

*The Secretary of State to the Chargé in Uruguay (Reed)*

WASHINGTON, January 26, 1938—5 p. m.

4. With reference to your recent reports on the stoppage of American exports to Uruguay, please seek an early interview with the Min-

<sup>48</sup> Despatch No. 145 not printed.

<sup>49</sup> William Dawson, the Appointed Minister, presented his credentials and assumed charge on February 10, 1938.

<sup>50</sup> José Richling, Uruguayan Minister in the United States.

ister of Foreign Affairs and endeavor to impress upon him the seriousness of the situation and the desirability of the Uruguayan Government promptly taking steps to terminate the existing discrimination against American trade. You may inform the Minister of Foreign Affairs confidentially that the unfavorable repercussions in this country of the discriminatory policy of the Government of Uruguay in its treatment of American trade is beginning to embarrass this Government in its efforts to strengthen commercial relations between Uruguay and the United States.

HULL

633.116/70

*The Chargé in Uruguay (Reed) to the Secretary of State*

No. 152

MONTEVIDEO, January 28, 1938.

[Received February 5.]

SIR: I have the honor to refer to my strictly confidential despatch No. 145 of January 20, 1938,<sup>61</sup> reporting my interview with the Minister of Finance and subsequent delivery of a protest to the Minister of Foreign Affairs because of the stoppage of importation from the United States while goods of similar classes from other countries were permitted entry, and my telegram No. 9 of January 26 regarding the desirability of publicity for the representations made, and to report subsequent developments.

In accordance with the Department's telegraphic instruction No. 4 of January 26, I saw the Minister of Foreign Affairs yesterday, January 27, and endeavored to impress upon him the seriousness of the situation and the desirability that the Uruguayan Government take prompt steps to terminate its discrimination against American trade. I pointed out that importation from the United States has been practically paralyzed for the past four months, that American goods valued by the Exchange Control Section of the Bank of the Republic at £1,500,000 are still detained in the Montevideo Customhouse, and that the usual flow of importation from the United States has been stopped, first by the refusal of import permits during the last three months of 1937, and later by the exclusion of the United States from the Bank's list of countries with quotas. Reference was also made to the statement of the balance of payments between Uruguay and the United States for the year 1937 based on purchases and sales of foreign exchange during the year, which was presented by the Minister of Finance to explain the fact that no quota for the United States had been granted. Although it was not desired to discuss the figures shown, (since I under-

<sup>61</sup> Not printed.

stand that no balance of trade, however unfavorable, is considered by the Department as justifying the prohibition of imports), I mentioned that the American Chamber of Commerce in Uruguay was analyzing them, and that the Directors of the Chamber could not understand how such a large balance against Uruguay could be accumulated in the last quarter of 1937, since no so-called "advances" of exchange were made for the American quota till that of September 25th, and in the last quarter the only quota allotted had been the so-called "advance" of £250,000. Without entering into a discussion of the balance of payments, however, I stated that there was apparently no prospect of any importation from the United States for some months unless the present policy of the Uruguayan Government should be altered. I then pointed out that the gravity of the action of the Uruguayan Government in stopping importation from the United States for a period of many months required no emphasizing, adding, for the confidential information of the Minister, and in accordance with the Department's instructions, that the unfavorable repercussions in the United States of the discriminatory policy of the Government of Uruguay in its treatment of American trade is beginning to embarrass the American Government in its efforts to strengthen commercial relations between Uruguay and the United States, and concluded by expressing the earnest hope that His Excellency's Government would take prompt steps to terminate this prohibition of importations from the United States.

The Minister of Foreign Affairs made no comment on my representations, but stated that a reply had been drafted to my *aide-mémoire* of January 19,<sup>52</sup> which would be received today. He did not indicate the nature of the reply. I handed him an *aide-mémoire* covering the statements which I had made (copy attached hereto), and he said that a copy would be referred to the Minister of Finance, as in the case of the *aide-mémoire* of January 19.

The note to which he referred has been received from the Ministry today. (copy and translation attached hereto). It merely states that my communication has been referred to the Ministry of Finance for consideration and that a telegram has been sent to the Uruguayan Legation in Washington giving the figures of the alleged unfavorable balance of exchange at the end of 1937, adding that it is desirable that these figures should be brought to the attention of the appropriate persons in order to obtain larger purchases by the United States (of Uruguayan goods).

In the hope of finding a practical solution of the problem created by the alleged lack of foreign exchange available for American goods, I have discussed the situation, not only with the Directors of the

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<sup>52</sup> See footnote 47, p. 927.

American Chamber of Commerce in Uruguay, but individually with the General Managers of the two American meat-packing companies established in Uruguay, Swift and Company and Armour and Company. Since animal products constitute about 85% of the total value of Uruguay's exportation and most of these animal products are shipped by the packing plants, the important position occupied by these two firms is apparent. Their heads are members of the Government Commission on the Meat Trade, which has great weight in determining official policies which affect that trade, including, of course, exchange control. The General Manager of Armour and Company, Mr. C. M. Purviance, has been in Uruguay since the construction of the Armour plant, over 20 years ago, and enjoys great prestige in official, as well as business circles in this country. He has been giving the most serious consideration to the present situation, and yesterday called at the Legation to give me his ideas on the matter. In summary, he stated that, due to the fact that Uruguay had tied up its available foreign exchange by a series of trade agreements, he was unable to see any method by which the exchange created by the countries with trade agreements could be made available for American goods, except, of course, by possible direct negotiation between the United States and such countries, particularly Great Britain. He feels, however, that the only real solution is for the United States to facilitate the importation of canned beef from Uruguay. He stated that at the present time the high American duty and the low prices in the United States made that market increasingly unattractive, as compared with the markets of Europe and other parts of the world (Uruguay exports canned beef to some 70 different destinations). He presented me with a detailed statement of the cost of producing and marketing canned beef in the United Kingdom, as compared with the United States, which shows that approximately 30% more is realized on canned beef exported to the United Kingdom, and also that the import duty in the United Kingdom amounts to approximately 33 cents U. S. as compared with \$1.08 in the United States. He declared that if by presidential action the import duty on canned beef from Uruguay could be reduced to somewhere near the British level, it would be possible to export an increased quantity which would compensate for the lack of wool shipments to the United States, which last year were valued at approximately \$8,000,000. This amount would be of little importance in the United States, but of great importance to Uruguay, and such action would immediately do away with the present critical position of American trade and the possibility of economic friction with Uruguay, with its probably unfortunate effect on the excellent political relations with Latin America resulting from the "good neighbor" policy. He

also suggested the possibility of permitting the importation of canned beef free of duty by the Government for consumption by the Civilian Conservation Corps and the unemployed.

A copy of Mr. Purviance's statement of costs is transmitted herewith, as of possible interest.

Respectfully yours,

LESLIE E. REED

[Enclosure 1]

*The American Chargé (Reed) to the Uruguayan Minister for Foreign Affairs (Espalter)*

AIDE-MÉMOIRE

The Chargé d'Affaires of the United States of America stated that he had been instructed by his Government to obtain an interview with His Excellency to explain the seriousness of the situation caused by the attitude of the Uruguayan Government toward American imports, and the desirability that steps be promptly taken to terminate the existing discrimination against American trade.

The Chargé d'Affaires stated that importation from the United States has been practically paralyzed for the last four months, as a result of the refusal of the Uruguayan exchange control authorities to grant permits for imports from the United States; that in consequence of this policy, goods from the United States of America have accumulated in the Montevideo Customhouse in very large quantities, the total value of which is reported by the Exchange Control Section of the Bank of the Republic as £1,500,000; that the usual flow of importation from the United States has been stopped, first by refusals of import permits in the last months of 1937, and later by the exclusion of the United States of America from the Bank's list of countries with quotas.

It is understood by the Chargé d'Affaires that this exclusion is due to the impression of the Exchange Control Authorities that the year 1937 closed with a heavy unfavorable balance of payments against Uruguay in its financial relations with the United States. The figures contained in a statement of this balance which was shown to the Chargé d'Affaires are now being analyzed by the Chamber of Commerce of the United States of America in Uruguay, whose Directors cannot understand how such unfavorable balance, as large as that shown, could be accumulated in the last quarter of 1937, since no advances of exchange were made for the American quota until September 25th. However, without entering into a discussion of the statistics on which the Bank of the Republic bases its action in stopping imports from the United States, it is apparent to the Chargé d'Affaires that there is no prospect of any improvement in the situation for some

months unless the present policy of the Uruguayan Government should be altered. The gravity of the action of the Uruguayan Government in stopping importation from the United States of America for a period of many months requires no emphasizing. The Chargé d'Affaires stated, for the confidential information of His Excellency the Minister of Foreign Relations, that the unfavorable repercussions in the United States of the discriminatory policy of the Government of Uruguay in its treatment of American trade is beginning to embarrass the Government of the United States in its efforts to strengthen commercial relations between Uruguay and the United States, and expressed the earnest hope that His Excellency's Government would take prompt steps to terminate this prohibition of importations from the United States of America.

MONTEVIDEO, January 27, 1938.

[Enclosure 2—Translation]

*The Uruguayan Ministry for Foreign Affairs to the American Legation*

The Ministry of Foreign Relations has the honor to acknowledge the receipt of the note from the Legation of the United States of America and in reply thereto begs to state that it has been transmitted to the Ministry of Finance for consideration of the matter brought up.

At the same time the Chancellery informs the Legation of the text of a telegram addressed to the Legation of Uruguay in Washington for the purpose indicated therein:

“Balance 1937 commercial exchange 1232000 pounds balance that United States owes to Uruguay. Financial balance also unfavorable to Uruguay public debt autonomous amortization bureau 907000 pounds. It is desirable to make known these figures furnished by the bank of the Republic to the appropriate person in order to obtain larger purchases on the part of the United States”.

MONTEVIDEO, January 27, 1938.

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833.5151/464 : Telegram

*The Secretary of State to the Chargé in Uruguay (Reed)*

WASHINGTON, January 29, 1938—noon.

5. Your 9, January 26, 10 a. m. I do not intend at this time to take the initiative in making a statement to the press regarding the current difficulties experienced by American trade in Uruguay, believing that no useful purpose would be served by such action. I desire, however, that you keep actively before the Government of Uruguay

the problems to which its recent official action in exchange control have given rise, and that you continue to point out to the Minister of Foreign Affairs the growing concern caused in this country by his Government's recent policies and their injurious and discriminatory effect on American trade. In accordance with the last paragraph of the Department's telegram of January 14, 4 p. m., you are cautioned against associating your action in this matter with such steps as may be taken independently by the American Chamber of Commerce in Uruguay.

HULL

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833.5151/465 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, February 3, 1938—3 p. m.

[Received 3:45 p. m.]

12. Department's 5, January 29, noon. I saw the Minister of Foreign Affairs today at the weekly audience and stated that I had come to see him again in accordance with telegraphic instructions from my Government to inform him of the growing concern which the discriminatory policy of the Uruguayan Government was causing in the United States and the increasing damage which it was doing to Uruguayan-American trade. I then referred to a United Press despatch dated Washington, February 1, referring to the Argentine decree reducing the surcharge on free exchange and stating that a semi-official source in Washington had stated that Uruguay's recent measures impeded the announcement of the negotiations contemplated with Argentina, et cetera. The Minister said that he had seen this despatch but added that he understood Richling was bringing the draft of a commercial treaty with Uruguay. However, he immediately continued that the problem was on the point of being settled in accordance with the desires of the United States Government and that he and the Minister of Finance had had a conference with President Terra who after considering the balance of payments had decided that the trade balance was probably not unduly unfavorable, the debt service being responsible for the heavy adverse balance of payments. The Minister of Foreign Affairs further informed me that the President holds that lending countries ought not to be penalized but favored and that the President had given instructions to the Minister of Finance to take measures to permit the resumption of importing from the United States. The Minister of Foreign Affairs added that I could inform my Government in this sense.

REED



633.116/77

*The Chargé in Uruguay (Reed) to the Secretary of State*

No. 173

MONTEVIDEO, February 10, 1938.

[Received February 19.]

SIR: I have the honor to refer to my strictly confidential despatch No. 162 of February 4, 1938,<sup>53</sup> in regard to the virtual prohibition of American imports resulting from the refusal to grant import permits for American goods, in which was reported an interview with the Minister of Foreign Affairs, in the course of which the Minister stated that the problem was on the point of being settled in accordance with the desires of the United States Government, and that the President had given instructions to the Minister of Finance to take measures to permit the resumption of importing from the United States.

No confirmation of these statements was received from the Minister of Foreign Affairs or noted from any action of the Exchange Control Authorities. In the course of a casual interview with the Vice President of the Bank of the Republic a few days later, that official informed me that he knew of no plan for permitting the resumption of importing from the United States. On February 9 there was received a note from the Ministry, transmitting an *Aide-Mémoire* in regard to the commerce between the United States and Uruguay (copy and translation attached). The note stated that, should the United States make additional purchases of Uruguayan goods at this time, it would be possible to apply 80% of the exchange created thereby towards the importation of American merchandise without considering the unfavorable balance of payments in 1937. The *Aide-Mémoire* contained a lengthy statement justifying the attitude and action of the Uruguayan Government. As this communication appeared to be at complete variance with the statements made to me by Dr. Espalter on February 3, I called at the Ministry of Foreign Relations during the weekly diplomatic audience today. I told the Minister that I had come to see him for the last time in my capacity as Chargé d'Affaires, and we exchanged a few remarks about the approaching presentation of credentials by Minister Dawson.

I then asked him if there was any news in regard to the quota and trade situation. He inquired whether I had received any word directly from the Bank of the Republic, saying that the matter was one with which the Bank was principally concerned. I told him that I had not received any communication from the Bank, but that yesterday I had received a note signed by Señor Guillot,<sup>54</sup> transmitting an *Aide-Mémoire*; that this *Aide-Mémoire* set forth the situation as it had been explained by the Minister of Finance and officials of the

<sup>53</sup> Not printed.

<sup>54</sup> Luis Guillot, Director General of the Ministry for Foreign Affairs.

Bank of the Republic, but contained no solution of the present difficulties. I said I assumed that this note was the one to which he had referred in our interview of February 3rd, which amplified the Ministry's note of January 27th, in reply to my *Aide-Mémoire* of January 19.<sup>55</sup> He said that such was the case, and that the note had been prepared prior to our interview of February 3rd. He said that it presented the actual situation, but that, notwithstanding its terms, President Terra and the Government proposed to give special consideration to the interests of the United States. He continued that the method of solving the problem was under discussion between the Ministry of Finance and the Bank of the Republic, and that it was connected with the idea of obtaining credits from the United States to cover American imports into Uruguay. He said that of course foreign trade must be reciprocal, and repeated briefly some of the arguments used by the Minister of Finance in support of bilateral balances of trade, but modified these statements by the remark that special arrangements would be made for the United States.

I told him that I was naturally very anxious to learn further details of the projected arrangement for the relief of importers of American goods, and expressed the hope that as soon as the plan became somewhat more concrete this Legation would be informed. The Minister assured me that the Legation would be informed just as soon as a definite decision was taken, explaining that the discussion was still in progress.

The general situation has been slightly improved during the past ten days by the attitude of the exchange control authorities in granting a considerable number of import permits after receiving evidence that exchange to pay for the goods in question had been acquired in the free exchange market. This action was taken principally in connection with automobiles, agricultural machinery and electrical equipment, including refrigerators. However, the value of the Uruguayan peso fell about 15% in the free market, and the General Manager of the Bank of the Republic announced that in future the combined import quotas for goods paid for by free exchange from all countries would be limited to a total of £2,000 per day.

At present, therefore, there is no indication that a quota of official (controlled) exchange will be granted for American goods.

In view of the statements of the Minister of Foreign Affairs reported in my telegrams Nos. 7 of January 19, 1938, and 12 of February 3, 1938, I am inclined to feel that the Minister of Foreign Affairs, in spite of his desire to adjust the existing commercial difficulties with the United States, lacks sufficient influence in the Government to secure the adoption of the policy which he favors.

Respectfully yours,

LESLIE E. REED

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<sup>55</sup> See footnote 47, p. 927.

[Enclosure—Translation]

*The Uruguayan Minister for Foreign Affairs (Espalter) to the  
American Chargé (Reed)*

MONTEVIDEO, February 9, 1938.

MR. CHARGÉ D'AFFAIRES: With reference to the note addressed to that Legation dated January 27th last, relative to the importation of goods from the United States of America, I am enclosing herewith an *Aide-Mémoire* containing information on the subject.

At the same time, I am pleased to express to you, Mr. Chargé d'Affaires, that this Government is inspired by the best intentions to satisfy the interests of the United States of America and believes that if this country (the United States) would make new purchases at the present time, it would be feasible to apply the largest part thereof to the importation of American goods in an important proportion of the amount thereof (80%), without considering the unfavorable balance of payments of 1937.

I avail myself [etc.]

For the Minister:  
LUIS GUILLOT  
*Director General*

[Subenclosure—Translation]

*The Uruguayan Ministry for Foreign Affairs to the American  
Legation*

AIDE-MÉMOIRE

The Government of Uruguay has pursued an extremely benevolent policy with respect to the entry of merchandise of American origin, since it gave it a protection which may be summarized in the following points:

- 1) It applied thereto the most-favored-nation treatment, on equal conditions.
- 2) In order to permit the importation thereof in the most advantageous conditions, it granted to it advances of quotas during the year 1937.
- 3) At the time when the scarcity of exchange was more acute, Uruguay permitted the entry of all agricultural machinery, implements, machinery in general and raw materials, all of them of North American origin, under the protection of controlled exchange, and in such volume, that it gave rise to a protest from the countries with which there were agreements and an available balance of exchange, on account of not having received a treatment equal to that of the United States.
- 4) While with respect to other countries severe restrictive measures were applied to the extent of not permitting the entry of articles necessary to industry and commerce, Uruguay authorized the importa-

tion of automobiles which, although with free exchange, from the point of view of American interests, it (the free exchange) did not affect them whatever, since the sellers received in dollars the value of their shipments.

Uruguay is not to be blamed for the situation of its commerce with the United States, since a brief analysis of the figures of interchange will permit the confirmation of this assertion. In fact, the United States in the year 1936 made purchases of Uruguayan products in the amount of £2,700,000 while in the year 1937 such purchases only amounted to £990,000. Uruguay, on the contrary, intensified its acquisitions of American merchandise, since from £1,270,000 registered for the year 1936, it rose to £2,138,000 in the following year.

Uruguay found it necessary to adjust the importations from the United States after having exhausted all the exchange originating from its purchases, besides considerable quantities which belonged to other countries. The reason for the present unbalanced condition lies, as demonstrated by the foregoing figures, exclusively in the considerable decrease of purchases on the part of the United States, which was observed at the beginning of the year 1936, at which time it stopped to acquire wool, besides other items in less intensity.

On the other hand Uruguay has encouraged purchases in the United States, incorporating even automobiles and other articles of a sumptuary character within the quotas of controlled exchange.

The unbalanced condition is so pronounced that, notwithstanding the extraordinary quotas fixed by the Bank of the Republic, there remain in the Customhouse goods awaiting clearance amounting to considerable figures.

If the United States believes it is assisted by reason in claiming the entry of its merchandise notwithstanding the unbalanced condition of the balance of payments, Uruguay would be invested with the same rights to require that its products should be purchased in a proportion equal to the purchases it makes in the United States, a very just principle in commercial matters.

It may be pointed out that there is an error in the affirmation that no advance of exchange was made for extraordinary quotas until September 25, 1937, since previous to that date the unbalanced conditions existed and, without publicly expressing it, the Bank of the Republic fixed quotas on account of the exportations to be made to the United States, which supposition was not confirmed by events, since shipments suffered a vertical descent.

Uruguay finds itself in the practical possibility [*impossibility?*] of complying with the desires of the Chargé d'Affaires of the United States to take care of the importations of that origin, since in order to do so it would have to utilize exchange produced by exportations

to other countries, who, with more reason, would formulate their protest for the action of not permitting the importation of their goods to the effect of which they had provided the necessary foreign exchange, and which Uruguay would have unjustly diverted in the benefit of countries which purchased less.

This consideration amply justifies Uruguay's conduct in the matter of importations from countries which have no exchange available in the interchange to form their quota. However, as stated before, the restrictions have been much less severe with the United States, since quotas have been recently fixed for the importation of automobiles, electrical refrigerators, vacuum cleaners, and many other articles which cannot be admitted as essential.

The policy of importations contemplated that they always originated from countries with a quota, and establishes the refusal or a negative resolution to the request, when the merchandise can be purchased in countries which have a quota available.

However, Uruguay is obliged to admit importations from countries without a quota, when such products are not susceptible of being brought from countries with a quota provided they are essential for industry, public consumption, or for the economic development of the nation.

We give below the figures of commercial interchange and financial movement up to December 1937.

Balance in favor of Uruguay from 1936.....	£784,752	
Exports for the year 1937. . . . .	993,311	
		<hr/>
		£1,778,063
Exchange sold for imports. . . £2,137,855		
Financial services . . . . .	907,543.8.0	3,045,398.8.0
		<hr/>
Exchange granted to the United States in excess.	£1,267,335.8.0	

Furthermore, the Honorary Commission of Imports and Exchange granted import permits with exchange not yet taken, in the approximate value of £100,000.

FEBRUARY 8, 1938.

633.116/74: Telegram

*The Minister in Uruguay (Dawson) to the Secretary of State*

MONTEVIDEO, February 12, 1938—11 a. m.

[Received February 12—10 a. m.]

16. Fifty-three importers of American goods constituting majority membership of American Chamber of Commerce have addressed a communication to the Minister of Finance and to the President of

the Bank of the Republic published in today's press. They point out that the authorities are not granting exchange to permit the customs clearance of goods which have been here for some time, that such goods were shipped with the tacit consent and even encouragement of the exchange authorities and that in consequence of the continuing refusal of exchange which constitutes a kind of moratorium for American goods, the petitioners are in a precarious situation which will oblige them to reduce or close their business, thus increasing unemployment. They call attention to Charlone's<sup>57</sup> statement of December 7th (in connection with new exchange and currency measures) that there would be sufficient exchange to clear the goods in the customhouse and conclude with a petition that prompt steps be taken to relieve the situation.

DAWSON

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833.5151/469 : Telegram

*The Minister in Uruguay (Dawson) to the Secretary of State*

MONTEVIDEO, February 16, 1938—11 a. m.

[Received February 16—10:55 a. m.]

17. According to information furnished informally and in strict confidence to Reed by a leading official of the Bank of the Republic, the latter plans to facilitate by increased use of free exchange the early clearance of imported merchandise now in customs. Accumulated merchandise is estimated at from two to three million dollars and includes not only American but also British and other foreign goods which are likewise affected although in a lesser degree by prevailing shortage of exchange. With respect to future imports the bank official said that the bank does not intend to continue the present virtual embargo on American goods and is waiting for exports to accumulate a reasonable quantity of official exchange in order again to grant us a quota.

DAWSON

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833.5151/472 : Telegram

*The Minister in Uruguay (Dawson) to the Secretary of State*

MONTEVIDEO, February 18, 1938—11 a. m.

[Received February 18—10:45 a. m.]

18. According to unpublished information confirmed by the Bank of the Republic import quotas of official exchange for the month of February have now been fixed for 11 countries excluding the United

<sup>57</sup> César Charlone, former Minister for Finance.

States. Quota total 1,025,000 pounds of which 400,000 pounds are for Great Britain. This refers only to official exchange and has no connection with proposed allotments of free exchange referred to in the Consulate General's telegram of February 17, noon.<sup>58</sup>

Sent for Commerce in reply to Department's telegram February 16, 5 p. m.<sup>59</sup>

DAWSON

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833.5151/476 : Telegram

*The Minister in Uruguay (Dawson) to the Secretary of State*

MONTEVIDEO, February 25, 1938—7 p. m.

[Received February 25—6:35 p. m.]

19. I saw this morning the Ministers of Foreign Affairs and Finance for the purpose of discussing the trade situation and renewing representations along the lines of the Department's telegrams and particularly its telegram No. 5 of January 29, noon. While both expressed their desire of finding a solution neither held out any concrete hope for immediate or early action. Minister of Finance stated that Uruguay has no exchange which it is free to apply to American imports and that to use the Bank of the Republic's reserve supply for this purpose would seriously compromise future. While promising to continue to seek a solution he said that a really adequate solution would require the collaboration of both countries with a view to placing their commercial interchange on a mutually satisfactory basis. While I was at the Foreign Office Richling called at the Legation and told Reed that he had just explained to President Terra that if Uruguay were to negotiate a trade agreement with the United States it must first remove all discrimination against American trade. Richling gave Reed to understand that the President is very anxious to negotiate a trade agreement and will take immediate steps to remove all discriminations. I am rather apprehensive lest Richling may perhaps have conveyed to his Government the impression that negotiations are nearer than is actually the case. Desirous as we are of seeing discrimination removed we should not want the Uruguayan Government to proceed under any misapprehension. In the circumstances the Department may wish to inform me as to present prospects and authorize me in my discretion to clear up any misunderstanding which I may find to exist.

DAWSON

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<sup>58</sup> Not printed.

<sup>59</sup> This telegram read as follows: "Following from Commerce: Reported that 2,000 pounds sterling allotted daily since February 15, for countries without quota covering merchandise now in customs house. Cable confirmation or denial." (833.5151/470a)

611.3331/154

*The Minister in Uruguay (Dawson) to the Secretary of State*

No. 66

MONTEVIDEO, March 17, 1938.

[Received April 22.]

SIR: I have the honor to enclose the Spanish text and an English translation of a note dated March 15 and received today in which the Uruguayan Minister for Foreign Affairs discusses the difficulties affecting American trade in Uruguay. In his introductory paragraph, Dr. Espalter refers to the representations of the Legation but mentions no specific note or *aide-mémoire*. His note is perhaps to be considered as a reply to the *aide-mémoire* which I handed him on February 25 (text enclosed in my despatch No. 28 of February 25).<sup>60</sup>

It will be observed that the Minister disclaims any intention on the part of Uruguay to discriminate against the United States, says that restrictions are applied uniformly to all foreign countries, and asserts that "it is a question of the carrying out of internal laws and regulations at present in effect, and not of discriminatory treatment of the United States." The closing paragraph of the note deals with the accumulation of American merchandise now in the Montevideo customs, a situation for which the Minister holds out hope of an early remedy.

While I doubt the advisability of engaging in any extended argument, I believe that it would be well for the Legation to reply to the Foreign Office along the lines of the draft which I enclose for the Department's consideration. If the Department approves the text and desires that I address the note to Dr. Espalter, I trust that it will instruct me to this effect as promptly as possible either by cable or by airmail.

Respectfully yours,

WILLIAM DAWSON

[Enclosure 1—Translation]

*The Uruguayan Minister for Foreign Affairs (Espalter) to the American Minister (Dawson)*

MONTEVIDEO, March 15, 1938.

MR. MINISTER: With reference to the question raised by the Legation, relating to the situation of imports from the United States into Uruguay as a consequence of the measures applied by the Bank of the Republic governing the introduction into this market of merchandise originating in countries having no exchange, I have the honor to advise

<sup>60</sup> Not printed; this despatch elaborated on representations reported in telegram No. 19, *supra*.



Your Excellency that the Foreign Office has considered the matter with the utmost good will.

I must point out that the measures taken by the Government of Uruguay with respect to imports of merchandise from countries without a quota are not due to any intention to discriminate against imports from the United States, inasmuch as the restrictions at present imposed upon the entry of merchandise are applied uniformly to all States under equal conditions. It is a question of the carrying out of internal laws and regulations at present in effect, and not of discriminatory treatment of the United States.

I take pleasure in letting Your Excellency know that my Government is endeavoring to devise measures necessary to facilitate the clearance of the North American products accumulated in the warehouses of the Montevideo customs, and that it is disposed to consider every initiative tending to give to this matter the most favorable solution. To this end the competent authorities of the country, to whose special attention the matter has been referred, have placed themselves in contact with the commercial circles concerned, and it is hoped that within a short time the importation of the merchandise of the United States now in the customs will be again facilitated.

I avail myself [etc.]

JOSÉ ESPALTER

[Enclosure 2]

*Draft of Proposed Reply to Note From the Uruguayan Minister for Foreign Affairs*

MONTEVIDEO, March . . . . .

EXCELLENCY: I have the honor to refer to Your Excellency's esteemed note of March 15 regarding the situation affecting imports from the United States into Uruguay which has been brought to the attention of the Foreign Office by this Legation on various occasions.

Your Excellency is good enough to assure me that the Foreign Office has considered the matter with the utmost good will. Your Excellency points out further that the measures taken with respect to imports from countries without a quota are not due to any intention to discriminate against the United States and that the existing restrictions are applied uniformly to all foreign countries under equal conditions. In conclusion, Your Excellency informs me of the interest of the Uruguayan Government in facilitating the early clearance of the American products at present accumulated in the Montevideo customs.

With reference to Your Excellency's statement that there is no intention to discriminate against the United States and that restrictions are applied uniformly to all countries, I may be permitted to

point out that, as Your Excellency is aware, no controlled exchange has been made available for American products for several months and, if I am correctly informed, Montevideo importers are unable to obtain import permits for new orders which they may desire to place in the United States. Under such conditions, American trade labors under disadvantages of the most serious nature and it seems obvious that the system of control at present in effect has resulted in a state of affairs which constitutes in practice a grave discrimination against imports from the United States. The interest of the Uruguayan Government in facilitating the release of the American goods now in the customs is greatly appreciated and, in view of Your Excellency's assurance that there is no intention to discriminate against American imports, I venture to express the hope that the Uruguayan Government will soon see its way to adopt measures of a nature to remove the difficulties referred to and to permit the resumption of importing from the United States.

I avail myself [etc.]

WILLIAM DAWSON

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633.116/91a

*The Secretary of State to the Minister in Uruguay (Dawson)*

No. 10

WASHINGTON, March 23, 1938.

SIR: Your recent reports regarding the unsatisfactory situation of American trade with Uruguay clearly indicate the desirability of a freer exchange of information between the two Governments with a view to shedding more light on the current problem. There is accordingly enclosed a draft memorandum which you are requested to present to the Uruguayan Minister of Foreign Affairs, if you perceive no objection, indicating the desirability of the Government of Uruguay making known to this Government certain information regarding foreign exchange transactions. If you consider it preferable, you may take the matter up orally, using the attached draft memorandum for background purposes. Please report fully the attitude of the appropriate Uruguayan officials regarding this matter, together with your own views and recommendations.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

[Enclosure]

*Draft of a Memorandum To Be Presented to the Uruguayan Minister for Foreign Affairs*

The serious situation which has confronted American trade with Uruguay during recent months has engaged the careful attention of

the Government of the United States. The existing situation is so unsatisfactory that it is believed that every effort should be made to find a solution which will be mutually satisfactory to both Governments and which will further strengthen their commercial relations.

The point of view of the Government of the United States has been made known repeatedly to the appropriate authorities of the Government of Uruguay. It has been made clear that the United States is opposed to any type of discrimination affecting its trade with Uruguay (or any other country), whether such discrimination take the form of differential tariff rates, differential exchange rates, or discriminatory allocation of quotas for imports or for the exchange to be used in payment of imports. On the contrary, the Government of the United States favors the most complete application of the principle of unconditional most-favored-nation treatment as applied to all forms of trade and payments control. As is well known, the conclusion of trade or payments agreements with foreign countries on a bilateral basis not only tends to reduce the total of world trade to the detriment of all countries, but also, as has been made apparent by the present situation in Uruguay, the existence of such agreements may have a very discriminatory effect on trade with other countries, such as the United States, not seeking to impose such restrictions. It was in recognition of these basic facts, which are well known to economists, that the Governments of the American Republics approved resolutions at both the Montevideo and Buenos Aires conferences condemning such harmful and discriminatory trade obstacles.

The Government of the United States is fully aware of the difficult situation in which the Government of Uruguay now finds itself as the result of the current decline, both in price and volume, of important Uruguayan exports, particularly wool. It is apparent that if there is not enough foreign exchange created by exports to satisfy all the demands of importers, some demands simply cannot be met under the present system of Uruguayan exchange control. It is equally apparent, however, that the distribution which has recently been made of the available foreign exchange has been highly inequitable and injurious to the important trade relations which have traditionally existed between Uruguay and the United States, and which it is hoped will grow stronger in the years to come. The reason advanced by the Government of Uruguay in its *aide-mémoire* of February 8, 1938 for its failure to allot exchange for the importation into Uruguay of merchandise from the United States is the alleged "unfavorable" balance of trade and payments of Uruguay with the United States. In that *aide-mémoire* it was said further that during the year 1937 exports of Uruguay to the United States created exchange amounting to £993,311, whereas exchange sold to cover imports amounted to £2,137,855.

The figures quoted above referring to Uruguayan exports to and imports from the United States present a picture differing widely from that shown by the official Uruguayan customs statistics. According to the latter, in the year 1937 Uruguayan exports to the United States amounted to 13,865,788 pesos, while imports into Uruguay from the United States amounted to 10,896,744 pesos, leaving a balance "favorable" to Uruguay of 2,969,044 pesos. The obvious discrepancy between these two sets of figures renders it highly desirable to attempt to obtain a clearer and more accurate picture of the balance of trade and payments between the United States and Uruguay than it has hitherto been possible to obtain. For this purpose it would appear to be essential for both Governments to be in possession of all the facts and statistics bearing on this important subject. In view of the reliance placed by the Government of Uruguay on the statistics regarding foreign exchange maintained by the Bank of the Republic, it would be very helpful for this Government to benefit also by that same information in order that there may be no disagreement regarding the facts in the matter and in order that the finding of a mutually satisfactory solution to the problem may thereby be facilitated. Although the detailed information which would be most useful in this connection is of course best known to the appropriate officials of the Government of Uruguay and of the Bank of the Republic, it is assumed that the most helpful information would cover some or all of the following points:

1. Total purchases and sales of controlled foreign exchange in 1936 and 1937 (and subsequently) corresponding to merchandise imports and exports to and from the principal trading countries, and also the grand totals for all countries.
2. Purchases and sales of controlled foreign exchange for transactions other than merchandise imports or exports.
3. Source of these figures.
4. Information regarding purchases and sales of foreign exchange in the free market.
5. Source of information regarding the destination of exports and the origin of imports corresponding to transactions in controlled exchange.
6. Basis on which foreign exchange transactions are "credited" or "debited" to Uruguayan trade with any given country.

The Government of the United States is earnestly desirous of seeking a solution to the current difficulties confronting trade between Uruguay and the United States, and to that end is prepared to cooperate to the fullest extent. It believes that the joint endeavors of the two Governments to arrive at a satisfactory solution will be greatly facilitated by a frank and free exchange of all pertinent information. It earnestly hopes that the Government of Uruguay will approach the

problem in the same spirit and will make known through official channels all information in its possession which might contribute to this end.

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611.3331/154 : Telegram

*The Secretary of State to the Minister in Uruguay (Dawson)*

WASHINGTON, March 30, 1938—5 p. m.

13. Your despatch no. 66, March 17, 1938. Proposed note to Uruguayan Minister of Foreign Affairs approved.

HULL

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611.3331/170

*Memorandum of Conversation, by Mr. James C. Sappington of the Division of Trade Agreements*

[WASHINGTON,] March 31, 1938.

Participants: Mr. César Gorri, Chargé d'Affaires of Uruguay  
 Mr. Darlington<sup>61</sup>  
 Mr. Daniels<sup>62</sup>  
 Mr. Sappington

The attached memorandum<sup>63</sup> was handed Mr. Gorri with the statement that the memorandum expressed this Government's views as to the treatment it would desire with respect to exchange control under a trade agreement with Uruguay. He was also informed that there were, of course, different ways in which the principle embodied in the memorandum could be put into practice and this Government, as stated, would welcome the views of the Uruguayan Government in regard to the matter. Mr. Gorri, after reading the memorandum, indicated, as his own immediate reaction, that an agreement could be reached on the basis of our position as set forth therein.

Mr. Gorri then stated that he would transmit the text to his Government, and inquired whether he could also send some word regarding the sanitary regulations under Section 306 (a) of the Tariff Act of 1930 as they affect Uruguayan meat exports, and in regard to tariff concessions on Uruguayan products. He was again informed that we were looking into the existing situation under Section 306 (a) of the Tariff Act as it affects Uruguayan chilled and frozen meats. With respect to duty concessions on Uruguayan products in a trade agreement, the rule of principal or important supplier was outlined, and

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<sup>61</sup> Charles F. Darlington, Jr., Assistant Chief, Division of Trade Agreements.

<sup>62</sup> Paul C. Daniels, of the Division of the American Republics.

<sup>63</sup> *Ante*, p. 908.

Mr. Gorri was again advised that consideration would be given in connection with trade-agreement negotiations, to all products of which Uruguay is an important supplier to the American market. In addition, it was pointed out to Mr. Gorri that under a trade agreement, containing the pledge of most-favored-nation treatment, Uruguay would be assured of the benefits of any concessions granted third countries on any product of interest to Uruguay.

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633.116/107

*The Minister in Uruguay (Dawson) to the Secretary of State*

No. 157

MONTEVIDEO, May 13, 1938.

[Received May 23.]

SIR: I have the honor to refer to the Department's instruction No. 10 of March 23, 1938 (no file number), enclosing a draft memorandum in which it was suggested that the Uruguayan Government make known to our Government certain information regarding foreign exchange transactions. As reported in my despatches No. 106 of April 8 and No. 147 of May 6,<sup>64</sup> I handed the memorandum on April 7 to the Minister of Foreign Affairs and was informed on May 5, when I reminded him of the matter, that the Bank of the Republic would transmit its reply in a day or two.

The Legation received at noon today a memorandum from the Foreign Office, dated May 12, containing the Bank's reply. I enclose copies of the memorandum and a translation which has had to be prepared in great haste in order to be forwarded by today's air pouch.

As will be observed, the reply is wholly unsatisfactory in that the Bank has confined itself to what is virtually a restatement of the Uruguayan position. No figures whatever have been furnished or promised. However, after asserting that its statistics are prepared with the greatest care, the Bank does say:

The Government of the United States, through its Legation, has at its disposal all the elements and antecedents concerning the matter, for the purpose of verifying the figures recorded as well as checking (*controlar*) future movements.

The Legation might very properly address to the Foreign Office a note pointing out the unsatisfactory nature of the Bank's reply and renewing the request for the information desired by the Department. In view, however, of our experience thus far with correspondence to which the Bank of the Republic has been a party, I doubt the advisability of handling the matter in this way. I am inclined to believe that the best course would be for me to tell the Minister of Foreign

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<sup>64</sup> Neither printed.

Affairs verbally that the Bank's reply is very disappointing in that it contains none of the information requested. I should at the same time refer to the Bank's statement quoted above and say that I hope that it may be interpreted as meaning that the Bank is prepared to make information available to the Legation. I should request the Minister's authorization to pursue the matter further with the Bank's officials and if, as I anticipate, he interposed no objection, I should seek an interview with the President of the Bank and endeavor to arrange to have one of my assistants visit the institution for the purpose of collecting at first hand as much as possible of the information requested in the Department's memorandum.

However, in view of all the circumstances and as the Department is understood to be discussing the whole situation with the Uruguayan Minister in Washington, I deem it advisable to await its instructions before taking any further action. In case it approves the course suggested above, it may desire to send me a brief telegraphic instruction to this effect.

Respectfully yours,

WILLIAM DAWSON

[Enclosure—Translation]

*The Uruguayan Ministry for Foreign Affairs to the American  
Legation*

NOTE VERBALE

The Ministry of Foreign Affairs has the honor to acknowledge the receipt of the Memorandum of the Legation of the United States of America of April 7 last concerning the present situation of the trade of Uruguay with the United States of North America, which was duly submitted to the Bank of the Republic for consideration, the Bank having replied in the following terms :

“The Government of Uruguay shares the principles maintained in commercial matters by the Government of the United States of North America and believes, as it does, that the most efficacious and effective means of intensifying the currents of interchange is to be obtained through a policy of absolute freedom in the movement of merchandise, free from any system of control as respects the fixing of import quotas for merchandise or products and as respects discrimination. The initiative as regards the application of such principles must come, naturally, from those countries which are in a position to impose norms on international commerce, and not from Uruguay, a country with a small territory and limited range of production, which must necessarily adapt itself to the demands of the countries which purchase its products. It was precisely because of this circumstance, and faced with the danger of losing its outlet markets, that Uruguay found itself compelled to sign commercial and payment agreements on a bilateral basis. However, in these agreements there are not

established any discriminations or import quotas. The clause concerning 'most-favored-nation treatment under equal conditions' stipulated in these agreements implies full freedom of commerce, the extension of which depends naturally upon the volume of purchases which the signatory countries make in Uruguay under the operation of such agreements. The countries which sell their products to Uruguay, whether or not they have signed agreements, do not suffer the least discrimination as respects their merchandise if the quota at their disposal permits their importation without restrictions. If, on the other hand, the quota were a small one and did not permit importation to the extent of the volume of their sales, Uruguay reserves the right to exercise discrimination, authorizing the importation of those products which it considers advisable or which cannot be acquired in countries having available an ample quota. Uruguay has exhausted all its efforts in favor of trade with the United States. The considerable unfavorable balance shown by the balance of payments demonstrates eloquently the intentions of Uruguay in this regard. It has allocated to the United States controlled exchange produced by other countries, in order that its products might be cleared under conditions as favorable as those for the products of countries which usually buy from us. It granted the United States extraordinary quotas under favorable conditions, without imposing restrictions, to the extent that even the importation of automobiles was covered with controlled exchange. It offered the United States to disregard the unfavorable balance in the balance of payments and to apply immediately to imports of its (American) goods the exchange which it (the United States) might create through its purchases. Finally, it (Uruguay) proposed a special arrangement consisting in the use of Hallgarten bonds<sup>65</sup> to clear merchandise in the customs, without finding a favorable response on the part of American merchants. However, except for the good intentions expressed on every occasion, the Government of the United States has not contributed materially any solution to the problem and merely demands payment for the products of that country without taking into account the vertiginous decline in its purchases from Uruguay. With respect to the question raised in the last part of the Memorandum of the Legation, it must be stated that the discrepancy noted between the statistics of the Bank and the customs statistics is easily explained. The statistics of the Bank are based on the value of exchange purchased for exports and exchange sold for imports and other purposes. This means that there are taken into account the true factors which represent the products exchanged. Customs statistics, on the other hand, cannot even approximately show the same exactness. The value which the customs assign to export and import products is determined by the official valuation (*aforo*) according to the tariffs, and it may be understood from this that they cannot even remotely be taken as an index to establish the true measure of interchange. The Bank of the Republic exercises the greatest care in the preparation of its statistics as well as in matters pertaining to the destination of exports and other details which serve

<sup>65</sup> By agreements of March 24, 1938, Hallgarten & Co. of New York became the paying agent for external conversion sinking fund dollar bonds offered to holders of outstanding dollar bonds of the City of Montevideo. See Foreign Bondholders Protective Council, Inc., *Annual Report, 1938* (New York, 1939), pp. 1086 ff.



as a basis in compiling data. The Government of the United States, through its Legation, has at its disposal all the elements and antecedents concerning the matter, for the purpose of verifying the figures recorded as well as checking (*controlar*) future movements. Finally, it should be stated that the Bank of the Republic, in concert with the public authorities, is studying at this time the problem involved in the accumulation of merchandise in the customs. The solutions which may be reached will benefit equally the United States and other countries whose situation with Uruguay in the commercial field is not as disadvantageous as that of the United States."

MONTEVIDEO, May 12, 1938.

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633.116/107: Telegram

*The Secretary of State to the Minister in Uruguay (Dawson)*

WASHINGTON, June 6, 1938—6 p. m.

21. Your despatch 157, May 13. In view of the unsatisfactory reply of the Bank of the Republic the Department concurs in your suggestion that you call on the Minister of Foreign Affairs in line with the procedure outlined in the penultimate paragraph of your despatch.

HULL

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633.116/114

*The Minister in Uruguay (Dawson) to the Secretary of State*

No. 248

MONTEVIDEO, June 30, 1938.

[Received July 11.]

SIR: I have the honor to refer to the Department's instruction No. 10 of March 23, 1938 (no file number) enclosing a draft memorandum in which it was suggested that the Uruguayan Government make known to our Government certain information regarding foreign exchange transactions. Reference is made also to my despatch No. 157 of May 13, 1938, transmitting a reply received from the Foreign Office and suggesting that in view of the unsatisfactory nature of this reply it would be advisable for me to request the authorization of the Minister of Foreign Affairs to pursue the matter further with the officials of the Bank of the Republic.

This course of action having been approved by the Department in its telegram No. 21 of June 6, 1938, I saw the Acting Minister of Foreign Affairs, Sr. Ubaldo Ramón Guerra, on June 9 and, after pointing out wherein the reply of the Bank of the Republic to the Legation's request for information was unsatisfactory, inquired if he would have any objection to my taking up the matter direct with the Bank. As I had anticipated, the Minister not only said that he would be very glad to have me do this but he even called up the President

of the Bank, Sr. Jorge West, and arranged himself for my interview with that official.

I saw Sr. West on the morning of June 10 and had a very cordial conversation with him. I pointed out that, while the Bank had very courteously furnished information at various times, the Legation did not have all the data desired by the Department. I told him that it was not my intention to question the accuracy of the Bank's figures but to get as complete, exact and recent information as possible for the Department's assistance in studying our trade relations with Uruguay. I left with Sr. West a statement in English and Spanish covering the data desired by the Department, and he said that he would be happy to have the available figures sent me as soon as possible.

The Bank's reply was received today in the form of a memorandum accompanied by tables.<sup>66</sup> I enclose copies of the tables and a copy and translation of the memorandum. These copies and the translation are being prepared hastily in order to catch the next outgoing air pouch, and the Legation and Consulate General have not yet had time to make a careful study of the figures furnished by the Bank. This study will be made during the next few days and any further comments which may prove necessary or pertinent will be transmitted to the Department in due course.

Respectfully yours,

WILLIAM DAWSON

[Enclosure—Translation]

*The Bank of the Republic of Uruguay to the American Legation*

MEMORANDUM

There are attached the following tables in compliance with the request contained in No. 1 (i. e. Point 1 of the Department's memorandum):

(a) Exchange purchased on account of exports, according to countries, including both official and controlled exchange, since up to December 4, 1937 operations were in official exchange. These tables cover the years 1936, 1937 and the months of January to May of 1938, for those exports the destination of which has been confirmed.

(b) Exchange purchased during 1937 and the months of January to May 1938 for accounts other than exports. It has not been possible to prepare a table covering 1936 because the pertinent data for that period are not complete.

(c) Exchange sold during the years 1936, 1937 and the months from January to May of 1938. This table includes imports and other accounts, such as debentures of foreign companies established in Uruguay, financial services of the same, and other transfers of a

<sup>66</sup> Tables not printed.

commercial character. In other columns of this same table are set forth financial services according to countries, including the obligations of the State as a result of its foreign debt, the First and Second Series Bonds of the Caja Autónoma de Amortization, and Treasury notes. All the figures of this table include controlled and official exchange.

It is not possible to give the details of sales of exchange in the free market because these operations are not controlled by the Bank.

We shall now give a brief statement of the source from which data furnished are obtained and the requirements which must be met in connection with export and import operations:

#### *Exports.*

The control of these operations is entrusted to the Control Office for Exports, established by decree of April 4, 1935. Its duties consist in issuing permits for shipments abroad. For this purpose it demands a bank certificate to the effect that the corresponding exchange has been negotiated in accordance with the provisions governing the class of merchandise exported, and it ascertains at the same time whether the prices at which exchange has been sold agree with the true prices. For this purpose it has technical specialists who in addition to checking the merchandise, carry out inspections to satisfy themselves regarding all details of the transaction.

The bank certificate above referred to must bear evidence of the authorization of the Bank of the Republic, which, before granting it, verifies whether the export shipment has been duly declared in the tables of "exchange purchased."

These tables after being carefully examined as respects all details, go to the Section for Exchange Control of the Bank of the Republic, which is charged with keeping account of the exports and imports by countries. The said office demands from exporters written confirmation of the destination of the merchandise and when this has been registered it credits to the respective country the amount of exchange as respects each export shipment.

#### *Imports.*

The Bank of the Republic is charged with determining exchange quotas for the different countries, and in certain cases by classifications, the distribution to individuals being carried out by the Direction of Services of Import Control and Individual Distribution of Exchange ("Dirección de Servicios de Control de Importación y Distribución Individual de Divisas"—referred to below as DISCIDID).

The Bank of the Republic determines quotas according to the volume of exports to each country and in the proportion corresponding thereto.

Within the limits of the quota established, the DISCIDID effects the individual distribution, keeping a list in which there are recorded

the number of the import application, name of the applicant, kind of merchandise, and amount.

The Bank of the Republic then checks the sales of controlled exchange made by (commercial) banks for imports against the lists prepared by the DISCIDID and, being found to be correct, it debits the different countries with the amount of exchange sales.

If when the shipping documents are presented it should be found that the origin of the merchandise is not that for which the required advance import application was granted, steps are taken to make the necessary rectification.

According to the note found at the foot of Table C (showing exchange sold) imports with free or uncontrolled exchange have not been taken into account, which imports are rather considerable in amount and under which regime nearly all imports from the United States during the current year have been made.

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833.5151/530

*The Minister in Uruguay (Dawson) to the Secretary of State*

No. 272

MONTEVIDEO, July 13, 1938.

[Received July 25.]

SIR: I have the honor to refer to my despatch No. 267 of July 9, 1938,<sup>68</sup> reporting a press statement to the effect that at a Cabinet meeting the Minister of Finance had advised his colleagues concerning measures with a view to restricting the use of free exchange for financing imports.

There is enclosed a self-explanatory memorandum<sup>68</sup> regarding a conversation had by Mr. Vitale<sup>69</sup> of my staff with Sr. Fermín Silveira Zorzi of the Bank of the Republic. As will be observed, Sr. Silveira Zorzi told Mr. Vitale very confidentially that, while the Minister of Finance was in favor of radical measures to check the use of free exchange for imports, the Bank of the Republic had expressed the opinion that this would be inadvisable and that, in endeavoring to limit the use of free exchange and restrict imports to quota countries (i. e., countries granted a quota of controlled exchange), the Bank should be allowed to use its discretion.

It will be noted also that Sr. Silveira Zorzi stated that free exchange in the amount of 30,000 pounds had recently been granted to importers of American agricultural machinery and that the amount would probably be increased.

Respectfully yours,

WILLIAM DAWSON

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<sup>68</sup> Not printed.

<sup>69</sup> George R. Vitale, clerk.

833.5151/543 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, September 22, 1938—10 a. m.

[Received September 22—9:10 a. m.]

76. According to the Bank of the Republic import quotas of controlled foreign exchange for the month of September have just been granted to 12 countries excluding the United States. Quotas total 497,000 pounds of which 160,000 are for Great Britain and 120,000 for Germany. The bank advises that there is a balance available from the free exchange quota of 280,000 dollars previously granted to the United States for agricultural machinery and urges importers to submit applications therefor.

REED

833.5151/548 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, October 18, 1938—3 p. m.

[Received October 18—2 p. m.]

92. According to the Bank of the Republic import quotas of controlled foreign exchange for the month of October have just been granted to 13 countries excluding the United States. Quotas total 301,500 pounds of which 100,000 are for Great Britain and 100,000 for Germany.

REED

833.5151/551 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, November 23, 1938—10 a. m.

[Received November 23—9:04 a. m.]

106. November import quotas for controlled exchange just announced include 11 countries again excluding the United States total 324,000 pounds. Great Britain and Germany again received 100,000 pounds each.

REED

833.5151/557 : Telegram

*The Chargé in Uruguay (Reed) to the Secretary of State*

MONTEVIDEO, December 27, 1938—3 p. m.

[Received December 27—1:31 p. m.]

116. December import quotas for controlled exchange just announced total 303,000 pounds sterling. They include 12 countries but exclude not only the United States but also Great Britain. Germany obtains largest quota, 100,000 pounds.

REED

## VENEZUELA

### NEGOTIATIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND VENEZUELA; AND PROVISIONAL COMMERCIAL AGREEMENT, SIGNED MAY 12, 1938<sup>1</sup>

611.3131/171

*The Minister in Venezuela (Nicholson) to the Secretary of State*

No. 910

CARACAS, January 18, 1938.

[Received January 27.]

SIR: I have the honor to refer to my cablegram no. 4 of January 18, 8 a. m.,<sup>2</sup> submitting additions to the list of Venezuelan products to be considered under Article I of the projected Reciprocal Commercial Agreement between the United States and Venezuela. A copy of the Venezuelan list with translation is submitted to the Department herewith.<sup>2</sup>

In reply to a memorandum from this Legation, the Venezuelan Foreign Office transmitted with the list of Venezuelan products, a memorandum outlining the conditions under which the Minister of Hacienda has been authorized to include petroleum and its derivatives in the Venezuelan list of products to be discussed during the negotiations. Copies of these memoranda are also enclosed.

The American producers of petroleum in Venezuela have made persistent representations to the Foreign Office in an effort to persuade the Venezuelan Government to include petroleum and its derivatives on the list. It will be noted that petroleum has been included for discussion in bargaining only under certain conditions. Dr. Gil Borges, the Minister of Foreign Affairs, stated to me that every effort is being brought to bear by the Venezuelan Government upon the petroleum companies to persuade them to establish refineries in Venezuela. He also stated that it was the opinion of government officials that Venezuela should receive a portion of the benefits that have tended to increase to such a large extent the prosperity of the islands of Aruba and Curacao through the refining of Venezuelan petroleum.

Respectfully yours,

MEREDITH NICHOLSON

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<sup>1</sup> Continued from *Foreign Relations*, 1937, vol. v, pp. 746-795.

<sup>2</sup> Not printed.

[Enclosure 1]

*The American Legation to the Venezuelan Ministry of Hacienda*

## MEMORANDUM

1. The Government of the United States of America does not approach the question of granting or requesting duty concessions on the basis of a narrow balancing of volume of trade involved in concessions granted and concessions obtained.

2. The policy of the Government of the United States in negotiating trade agreements is to obtain the reduction or amelioration of restrictive barriers to international trade and thereby expand trade along natural lines. In considering possible trade agreement concessions it has in general followed the rule of principal supplier. In selecting the products included in its tentative list for submission to the Venezuelan Government the United States Government was largely guided by its position in regard to such products in the Venezuelan market. It is to be expected that the Venezuelan Government will include in its list, now being prepared, those products of which Venezuela is a principal supplier in the United States market and with respect to which it desires to maintain or increase its position in that market.

3. Crude petroleum and fuel oil are among the principal exports of Venezuela to the United States and consequently it would seem desirable that these products be included in the preliminary lists. Such procedure would enable the Government of the United States to make a public announcement of all articles with respect to which concessions might be considered and thereby obviate any unnecessary delays should the question of crude petroleum and fuel oil be raised at a later date.

CARACAS, December 20, 1937.

[Enclosure 2—Translation]

*The Venezuelan Minister for Foreign Affairs (Gil Borges) to the American Minister (Nicholson)*

## MEMORANDUM

Memorandum of the Minister of Foreign Affairs for His Excellency the Minister of the United States, with respect to the inclusion of petroleum exported directly from country to country in the reciprocal trade treaty which it is intended to conclude.

The Ministry of Hacienda has been authorized to include petroleum and its derivatives in the list of Venezuelan products of the soil or of industry of Article I of the projected Reciprocal Trade Treaty be-

tween Venezuela and the United States, under the following conditions and reservations:

1. Only those petroleums and their derivatives shall be understood to be included in the list and subject to the terms of the treaty which are exported directly from Venezuela to the United States.

2. Those petroleums and their derivatives which leave Venezuela for Curacao, Aruba or any territory other than that of the United States, and which cannot, in consequence, be considered as a direct export from country to country, shall not be included under the terms of the treaty.

3. Petroleum and its derivatives shipped from Venezuela shall not be considered to be included in the trade balance between the two countries for the purposes of demanding advantages or favors from Venezuela equivalent to advantages or favors which may be granted in the United States to the importation and consumption of the said petroleum. Therefore, Venezuela shall not be obliged to grant tariff reductions nor any other favor or advantage to the importation of American products in return for favors, reductions or advantages granted in the United States to the importation and consumption of petroleum and its derivatives.

4. As every favor or advantage granted to the importation and consumption in the United States to petroleums exported directly from Venezuela shall be an added gain for the petroleum companies, the inclusion of this product in the treaty, is subordinated to the condition that the petroleum companies which exploit the product agree with the Government of Venezuela in refining 50% of the petroleum exported in this country. This proportion may be reached gradually within the period and in accordance with such conditions as may be stipulated between the National Government and the Companies.

CARACAS, January 17, 1938.

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611.3131/169 : Telegram

*The Minister in Venezuela (Nicholson) to the Secretary of State*

CARACAS, January 18, 1938—4 p. m.

[Received 8:56 p. m.]

5. My telegram No. 4 of January 18, 8 a. m.<sup>3</sup> Please telegraph when second announcement is to be issued in the United States as the Venezuelan Government wishes to make similar announcement here and publish the list of products on which Venezuela will consider granting concessions.

NICHOLSON

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<sup>3</sup> Not printed.



611.3131/169 : Telegram

*The Secretary of State to the Minister in Venezuela (Nicholson)*

WASHINGTON, January 21, 1938—4 p. m.

2. Your telegram No. 5, January 18, 4 p. m. You should inform the Venezuelan Foreign Minister that the revised list of products on which the Venezuelan Government desires concessions in a trade agreement is now being studied. If, because of the rule of principal supplier or for other compelling reasons regarding which the Venezuelan Government would be informed, this Government should find that it could not consider granting concessions on certain products contained in the Venezuelan Government's revised list, and consequently that it would be impracticable to publish such products with the second announcement, the matter would be discussed with the Venezuelan Government and the latter's approval to the elimination of such products from the published list would be sought.

As previously explained, the list of products handed the Venezuelan Government on which this Government may request concessions of Venezuela is necessarily tentative pending completion of public hearings here pursuant to the second announcement. This tentative list was not prepared with a view to its publication. Therefore, if the Venezuelan Government definitely desires to publish a list of products on which Venezuela will consider granting concessions to the United States, this Government would expect to be advised in detail concerning the products which the Venezuelan Government proposes to include in such list. On its part, the Government of the United States would expect that such list would include all products of which the United States has been the principal supplier and probably also a number of products of which the United States, although not the chief supplier, has been an important source or is potentially an important source of imports into Venezuela. This is in accord with the basis upon which the revised Venezuelan list is being examined here.

As soon as decision has been reached concerning the publication of lists by both Governments, and such of the foregoing steps as may be necessary have been completed, the Department will consult with the Venezuelan Foreign Minister regarding a mutually satisfactory date for the simultaneous issuance of the second public announcement here and at Caracas.

HULL

611.3131/175: Telegram

*The Minister in Venezuela (Nicholson) to the Secretary of State*

CARACAS, February 25, 1938—5 p. m.

[Received 7:20 p. m.]

18. My 11, February 5, 10 a. m.<sup>4</sup> The Venezuelan Government has now agreed not to publish the preliminary list of products on which the United States may seek concessions. It is therefore ready that the United States Government proceed with the second public announcement in Washington.

However, the Venezuelan Government does not subscribe to the formula of the principal supplier as a basis for granting concessions. Concessions will be accorded only on the basis of equivalent values and effective reciprocity.

I am forwarding by the next air mail a memorandum from the Minister of Hacienda received today which sets forth the Venezuelan point of view.

NICHOLSON

611.3131/176

*The Minister in Venezuela (Nicholson) to the Secretary of State*

No. 944

CARACAS, February 25, 1938.

[Received March 5.]

SIR: I have the honor to confirm my telegram no. 18 of February 25, 1938, 5 p. m., and to enclose a copy with English translation of the Memorandum from the Minister of Hacienda referred to therein. Dr. Ramon Eduardo Tello, who delivered the Memorandum to the Legation, stated that the Venezuelan Government would have no objection to the publication of the second announcement in Washington at the earliest possible moment.

Respectfully yours,

MEREDITH NICHOLSON

[Enclosure—Translation]

*The Venezuelan Ministry of Hacienda to the American Legation*

## MEMORANDUM

In the memorandum<sup>5</sup> of the Legation of the United States of America, dated the fourth instant, it is stated anew that the criterion which should regulate the concessions of advantages is the considera-

<sup>4</sup> Not printed.<sup>5</sup> Not found in Department files.

tion of whether a country is the principal supplier in a category of products imported by the other country. It is obvious that such a criterion, while it may be desirable to the United States by reason of its enormous economic development which makes of it the principal supplier of many of the articles which we import, is very disadvantageous for a country of modest economic development like Venezuela which cannot aspire to the position of chief supplier of the American market in any of the products which make up its exportation.

The admission of this criterion would regularize the situation adverse to Venezuela and would make impossible the obtaining of any advantage needed for Venezuelan products in compensation for the advantages which would be granted to the majority of the American products.

In the preliminary conversations only the general provisions of the agreement were discussed, but when any reference was made to the lists of products which would be annexed to articles I and II of the draft, the Ministry of Foreign Affairs expressed the view that the requests for advantages by the one and the other country should be based on the approximate calculations of the equivalents of values represented by those advantages, so that there might be equality and effective reciprocity in the concessions granted. This consideration of the equivalence of the advantages was incorporated in articles I and II of the draft agreement presented by the Ministry of Foreign Affairs.

With respect to the list of products on which the American Government hopes for concessions, the list will not be published by the Government of Venezuela until the latter has reached entire agreement with the Government of the United States on the concessions to grant.

CARACAS, February 25, 1938.

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611.3131/171

*The Secretary of State to the Minister in Venezuela (Nicholson)*

No. 250

WASHINGTON, March 7, 1938.

SIR: Reference is made to your despatch No. 910, of January 18, 1938, enclosing (1) the Venezuelan Government's revised list of products for consideration in connection with this Government's public announcement of intention to negotiate a trade agreement with Venezuela, and (2) a memorandum of the Venezuelan Government with respect to petroleum and petroleum products.

The interdepartmental trade-agreements organization has carefully examined the Venezuelan Government's revised list with a view to the publication of the products contained therein at the time of this Government's second public announcement. There is enclosed a memo-

randum <sup>7</sup> embodying this Government's comments on that list which has been divided into three groups as follows:

1. Those products which this Government is now prepared to publish in connection with its announcement.
2. Those products in regard to which further information would be necessary in order for this Government to determine the desirability of their publication.
3. Those products on which this Government would be unable to grant any concession to Venezuela.

As you are aware, the United States in general follows the rule of granting concessions in the first instance to the principal or important suppliers of a given product. In accordance with this Government's commercial policy, however, such concessions are immediately generalized to smaller or potential suppliers. Were the United States to grant concessions to Venezuela on products which that country either does not supply at all to the American market, or supplies in negligible quantity, the benefit thereof would accrue entirely or primarily to those countries which actually do export appreciable amounts of such products to the United States. On the other hand, Venezuela would be assured, under the most-favored-nation clause of a trade agreement, of obtaining the benefit of any concessions which may be granted to third countries on products which Venezuela may in future export to the United States.

You are requested, unless you perceive objection, to present the enclosed memorandum to the Foreign Minister, in order that the Venezuelan Government may have an opportunity to reconsider its list in the light of this Government's comments thereon; and with a view to obtaining that Government's acquiescence in the publication by this Government of the products comprised in group 1 of the memorandum. Unless the Venezuelan Government could supply information sufficient to warrant such action, this Government could not publish any of the products included in group 2. This Government cannot publish the products included in group 3 as it is not in a position to grant a concession to Venezuela on any of those products. In this connection, it will be noted that the products contained in group 1 of the memorandum constituted, on the basis of 1936 figures, approximately 93 percent by value of Venezuela's exports to the United States. The remaining 7 percent includes numerous products of which Venezuela ships only small quantities to the American market as compared with imports into the United States from the principal or important suppliers. From these figures it is obvious that, subject to the rule of principal or important supplier, this Government has sincerely endeavored to identify and to include in the list it

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<sup>7</sup> Not printed.

proposes to publish all products imported into the United States in which Venezuela has a material interest.

There is also enclosed a memorandum for transmission, unless you perceive objection, to the Venezuelan Foreign Minister in reply to the Venezuelan Government's memorandum of January 17, 1938, in regard to petroleum and petroleum products.

You are requested to report fully to the Department any conversations you may have with Venezuelan officials in regard to the foregoing matters. In addition, the Department would be glad to receive any comments which the Legation may consider pertinent or helpful.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

[Enclosure]

*Draft of Memorandum To Be Presented to the Venezuelan Minister  
for Foreign Affairs (Gil Borges)*

The Government of the United States has given careful consideration to the views of the Venezuelan Government, as set forth in the memorandum of January 17, 1938, with respect to petroleum and petroleum products. The Government of the United States is prepared to include crude petroleum and fuel oil in the list of products to be published in connection with its formal public notice of intention to negotiate a trade agreement with Venezuela. United States import statistics show that these are the only petroleum products of which Venezuela is an important supplier to the American market. Shipments of these two products from Venezuela to the United States in 1936 constituted about 69 percent by value of the total imports for consumption into the United States from Venezuela.

While the Government of the United States will consider granting concessions to Venezuela on crude petroleum and fuel oil, it is specifically precluded by the provisions of the Trade Agreements Act,<sup>8</sup> under the authority of which trade agreements are negotiated, from limiting the application of any concession which may be granted to direct shipments. The Trade Agreements Act provides that the "proclaimed duties . . . shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported into the United States directly, or indirectly. . . ." This principle is embodied in this country's international agreements with many countries. It may be pointed out that by far the greater part of Venezuelan crude petroleum and fuel oil imported into the United States now enters by direct shipment.

Since crude petroleum and fuel oil constitute so large a proportion

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<sup>8</sup> Approved June 12, 1934; 48 Stat. 943.

of the total value of Venezuelan exports to the United States, the maintenance or improvement of Venezuela's position as a supplier of those products to the American market must necessarily be of considerable importance to the Venezuelan economy. The Government of the United States could not consider binding the existing tax on those products, much less a reduction therein, unless the Venezuelan Government granted concessions on American products in return. As stated in the memorandum of December 20, 1937<sup>9</sup> of the Legation of the United States at Caracas, in accordance with its commercial policy as embodied in trade agreements, this Government has not approached the question of granting or requesting duty concessions on the basis of a narrow balancing of the volume of trade represented by products affected by concessions granted and concessions obtained. As evidence of this, the Government of the United States is prepared to consider granting concessions on Venezuelan products constituting approximately 93 percent by value of Venezuela's exports to the United States on the basis of 1936 figures. On the other hand, this Government does not expect to request concessions from Venezuela on substantially more than 46 percent by value of total United States exports to that country in 1936.

With respect to the suggestion contained in the last paragraph of the memorandum of the Venezuelan Government to the effect that a concession on petroleum be made contingent upon the establishment of refineries in Venezuela by the companies operating there, it is believed that the Government of Venezuela will readily recognize that this matter, relating as it does to the conditions under which private interests may operate in Venezuela, is not one which could be dealt with in the proposed trade agreement.

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611.3131/176 : Telegram

*The Secretary of State to the Minister in Venezuela (Nicholson)*

WASHINGTON, March 9, 1938—6 p. m.

13. The Department's instruction No. 250, enclosing a memorandum for presentation to the Venezuelan Foreign Minister embodying this Government's views on the Venezuelan Government's revised list of products, was sent you by air mail on March 7. This Government is now prepared to publish the products comprised in group 1 of that memorandum. If the Venezuelan Government acquiesces in the publication of those products by this Government in connection with this Government's second public announcement, the Department is prepared to set a date at once for the issuance of that announce-

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<sup>9</sup> *Ante*, p. 957.

ment and will inform the Venezuelan Government of such date.

For your information the Department is most anxious that the trade agreement be negotiated with the least possible delay, both in order to bring the negotiations to a successful conclusion and because of the increasing trend towards bilateralism indicated on the part of the Venezuelan Government.

With respect to the Venezuelan Government's position regarding the rule of principal supplier as set forth in its memorandum of February 25, 1938, transmitted with the Legation's Despatch No. 944 of the same date, you should point out to the Foreign Minister and, if you deem it advisable, to other Venezuelan officials that according to United States import statistics Venezuela is a principal or important source of the products which this Government is now prepared to publish and which, as stated, account for approximately 93 percent of the value of Venezuela's exports to the United States in 1936.

With respect to products of which Venezuela is not a principal or important source of imports into the United States, you should insure a complete understanding on the part of the Venezuelan officials that under a trade agreement embodying the unconditional most-favored-nation clause, such products would be assured of receiving the benefits of all concessions that have been or will be granted thereon in trade agreements with other countries.

Please keep the Department promptly advised of any conversations you may have with Venezuelan officials in regard to the foregoing.

HULL

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611.3131/179: Telegram

*The Minister in Venezuela (Nicholson) to the Secretary of State*

CARACAS, March 23, 1938—5 p. m.

[Received 6:56 p. m.]

22. My telegram No. 21, March 19, 10 a. m.<sup>10</sup> The Minister of Foreign Affairs and the Minister of Finance are studying my note of March 12.<sup>11</sup> An immediate reply cannot be expected. I have endeavored to present the Department's viewpoint with respect to memoranda 1 and 2 with the utmost care to both ministries and am following the matter closely to ensure the promptest action possible. It is my impression that the Venezuelan Government may make proposals looking to the conditional inclusion of certain of the products in the Department's group 3, notably salt and magnesite, which the govern-

<sup>10</sup> Not printed.

<sup>11</sup> Not printed; this note was based on instruction No. 250, March 7, p. 961.

ment expects will shortly be produced in large quantities. It regards as particularly desirable the exportation of these commodities to the United States since they would provide cheap return cargoes for vessels calling at Venezuelan ports.

The Foreign Minister has suggested to me the desirability of entering into a *modus vivendi* guaranteeing unconditional most-favored-nation treatment between the two countries pending conclusion of the trade agreement negotiations. He informs me that contrary to my previous understanding the extension of such treatment to the United States is not general at present but is confined to the benefits of the Franco-Venezuelan commercial accord.

NICHOLSON

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611.3131/181

*The Minister in Venezuela (Nicholson) to the Secretary of State*

No. 971

CARACAS, March 28, 1938.

[Received April 2.]

SIR: I have the honor to refer to the Department's instruction no. 250, dated March 7, 1938 (File no. 611.3131/171), and to forward herewith a copy of my note no. 336 of March 12, 1938<sup>12</sup> to the Minister of Foreign Affairs, based thereon.

Since presentation of my note, I have kept in touch almost daily with the Foreign Office to learn what action was being taken by the Venezuelan Government on the trade agreement.

On March 21 the Foreign Minister suggested to me that a *modus vivendi* be concluded which would guarantee between the United States and Venezuela unconditional most-favored-nation treatment pending completion of the trade agreement negotiations. Dr. Gil Borges thus appeared to expect that some time would elapse before the agreement could be finished. He showed concern with respect to the inclusion of petroleum in the discussions and the possibility that a concession on petroleum might benefit primarily the British and Dutch islands in the Caribbean which are now refining most of Venezuela's crude oil. I reassured him on the latter point and explained that the agreement as contemplated would not include refined petroleum products.

The Foreign Minister then spoke of the necessity of limiting the agreement to direct trade between the two countries. I have long been aware that the Venezuelan Government has a deep-seated fear of any move which would tend to develop an entrepot or reshipment point in the Caribbean area for foreign goods destined to Venezuela. I reminded Dr. Gil Borges that Venezuela was protected in this respect

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<sup>12</sup> Not printed.



by the condition agreed to earlier in the discussions whereby Puerto Rico would be included in the agreement only as regarded goods the produce of that island.

The Minister of Foreign Affairs went on to say that Venezuela had incurred a heavy trade deficit last year, and that the Government had determined upon a general policy of trading on the basis of equivalents to remedy the situation. He stated that Venezuela could not afford to adopt in its own relations the rule of principal supplier as it was the principal supplier of practically nothing to any country. I endeavored to make clear to the Foreign Minister how the application of this rule in the present agreement was to the advantage of Venezuela as well as the United States, and pointed out that on a substantial number of the products which it had been found necessary to eliminate from the Venezuelan list Venezuela would receive the benefit of concessions made by the United States to third countries. Dr. Gil Borges remarked that such benefits were insecure since they depended upon the continuation of relationships to which Venezuela was not a party. He promised, however, to consult with the Minister of Hacienda as soon as possible for the purpose of drafting a reply to my note. This reply, he stated, would have to be submitted to the Cabinet for its approval.

The suggestion made by the Foreign Minister of a *modus vivendi* surprised me as it had long been my understanding that the United States was already receiving unconditional most-favored-nation treatment from Venezuela as the result of an exchange of notes between the Legation and the Foreign Office dated December 21, 1936,<sup>13</sup> and January 11, 1937,<sup>14</sup> respectively. Dr. Gil Borges informed me, however, that the extension of this treatment had been specifically limited to the concessions included in the French agreement.

On March 23 Secretary of Legation Daniel M. Braddock called on Dr. Ramon Eduardo Tello, Director of Economy and Finance in the Ministry of Hacienda, who is charged by the Venezuelan Government with the details of the discussions in their present stage, and explained to Dr. Tello the reasons why it had been necessary to eliminate various items from the Venezuelan list. While recognizing the advantages of the principal supplier rule as applied in general, Dr. Tello argued that there should be some legitimate exceptions, such as salt and magnesite. The Venezuelan Government expected, he said, that salt and magnesite would shortly be produced in this country in large quantities, and it was most anxious to export these products to the United States. A duty reduction on salt and magnesite, according to Dr. Tello, would enable these Venezuelan products to compete in the American market

<sup>13</sup> See note No. 167, December 21, 1936, from the American Chargé in Venezuela to the Venezuelan Minister for Foreign Affairs, *Foreign Relations*, 1936, vol. v, p. 962.

<sup>14</sup> See telegram No. 2, January 11, 1937, 6 p. m., from the Chargé in Venezuela, *ibid.*, 1937, vol. v, p. 746.

where now they are unable to do so. If Venezuela could ship these commodities to the United States, it would be able to solve in large part its vexing transportation problem, since a major cause of the existing high freight rates is the fact that vessels from the United States which call at Venezuelan ports must at present return not fully loaded.

Dr. Tello stated that there might be a few other products as well which his Government would have special reasons for wishing to include in the trade agreement. He suggested that a formula might be found for granting provisional concessions on these items which would become effective only when Venezuela were in a position to take its place in the American market as an important supplier.

There has been no change in the status of the question since the conversations with Dr. Gil Borges and Dr. Tello reported above.

The Department has invited my comments on the subject of the trade agreement negotiations. It is respectfully suggested that a consideration of the following factors might be helpful toward bringing the discussions to a fruitful conclusion.

The concept of unconditional most-favored-nation treatment, which the Venezuelan Government has indicated that it would be willing to extend to the United States, is an exception to its now well established policy of trading on the basis of equivalents. There would appear to be definite advantages to the United States in securing this treatment, together with the removal of the thirty percent surcharge on direct imports from Puerto Rico, by means of a trade agreement, even if the lists of specific concessions in the agreement should be small.

It is my impression, developed from numerous conversations with the Foreign Office and the Ministry of Hacienda on the subject, from a study of press comments, and from informal exchanges of views with Venezuelans in private life, that the Venezuelan attitude towards the projected trade agreement with the United States is one not of enthusiasm but of willingness provided a strictly fair and mutually useful exchange can be obtained. In the light of this lukewarm sentiment, unreasonable demands on the part of the United States for concessions might easily cause the breakdown of the negotiations and might even make it impossible to secure on a permanent basis the advantage of the unconditional most-favored-nation treatment. I believe it very important for the two countries to agree on the basis for exchanging concessions before the United States presents any list of specific requests.

How far the United States can safely trade on a possible concession on crude petroleum and fuel oil will be one of the most important points to determine. The Department has undoubtedly perceived some merit in the Venezuelan contention that petroleum shipments

have only an indirect interest for the Venezuelan Government in as much as these shipments belong entirely to foreign interests, and chiefly American interests. The Venezuelan Government is well aware, however, that no concession on these products could be considered unless some compensation were offered in return. I venture to suggest that a practical proposal would be the inclusion of a certain percentage of the value of petroleum shipments for purposes of trading. This percentage should probably range somewhere between 10 percent, the rate at which royalties are collected by the Government, and 50 percent.

The Department is possibly not aware that the Venezuelan Government is likely to encounter considerable difficulty in making the trade agreement acceptable to the Venezuelan public. Part of the local press has already urged the Government to follow the practice of the United States in publishing lists of products on which concessions are being considered and in holding public hearings. The reaction will be unfavorable when it becomes known that the Government does not intend to publish any list.

The press has also stressed the importance of seeking advantageous outlets for products which offer promise of substantial exportation in the future but which are now exported in very small quantities or not at all. It would meet this desire and improve materially the prospect of reaching an agreement if the United States Government were able to make one or two exceptions to the rule of principal supplier, such as on salt and magnesite, with the stipulation that such concessions would become effective only upon the exportation, or the assurance of exportation, of these products to the United States in certain minimum quantities.

Finally, the Government is certain to be criticized for securing any benefits for the foreign oil interests at the cost of concessions in the Venezuelan tariff.

I shall not fail to keep the Department informed of developments in the discussions and of any new phases which may appear.

Respectfully yours,

MEREDITH NICHOLSON

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611.3131/180 : Telegram

*The Minister in Venezuela (Nicholson) to the Secretary of State*

CARACAS, April 1, 1938—5 p. m.

[Received 7:55 p. m.]

26. My despatch No. 971 dated March 28, the Minister of Foreign Affairs assured me in a conversation this morning that he was not discouraged over the possibility of completing a trade agreement with the United States. He expressed the view, however, that "several

weeks" would elapse before an agreement could be concluded and suggested again the advantage of entering into a *modus vivendi* in the meantime in the light of two probable developments: (1) The implantation of a quota system in Venezuela which is imminent and (2) The adoption of a 2-column or even a 3-column tariff which is less imminent but which he is urging upon the Government.

The *modus vivendi* as suggested by the Foreign Minister might be either a very short document containing only a guarantee of unconditional most-favored-nation treatment or it might be a much longer document embodying the draft general provisions of the trade agreement already agreed upon. Dr. Gil Borges offered to submit to me informal drafts of the two types in about a week, after they had been approved by the President and the Cabinet.

A reply to my note of March 12th<sup>15</sup> is expected within 10 days but as all government departments are at their busiest during the session of Congress which opens April 19 the Department should be prepared for discussions to proceed slowly for a time.

NICHOLSON

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611.3131/179

*The Secretary of State to the Minister in Venezuela (Nicholson)*

No. 258

WASHINGTON, April 5, 1938.

SIR: Reference is made to your telegram No. 22, March 23, 5 p. m., in regard to a possible *modus vivendi* between the United States and Venezuela. You should inform the Venezuelan Foreign Minister that while the Department will, of course, be happy to consider any suggestion he may wish to make regarding a *modus vivendi* assuring unconditional most-favored-nation treatment between the two countries pending conclusion of the trade-agreement negotiations, it believes that it is preferable to bend all efforts to the most expeditious conclusion of the trade agreement. To that end, as stated in the Department's telegram No. 13 of March 9, 1938, the Department is prepared to set a date at once for the issuance of this Government's second public announcement, if the Venezuelan Government acquiesces in the publication, in connection with that announcement, of the products comprising group 1 in the memorandum accompanying the Department's instruction No. 250 sent you on March 7. Furthermore, the Department is prepared to proceed as rapidly as possible thereafter with the negotiation of the trade agreement, and hopes that the agreement may be concluded at an early date after the completion of public hearings in this country which would be about five weeks after the second public announcement. During the period between the issuance of the

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<sup>15</sup> Not printed; this note was based on instruction No. 250, March 7, p. 961.

second announcement and the conclusion of public hearings in this country, discussions could proceed between the two Governments with respect to the general provisions of the trade agreement, and, with respect to products, keeping in mind, however, that this Government's position in regard to the latter because of legal requirements must be subject to information and data received from domestic interests as a result of the second public announcement and hearings.

You should also inform the Foreign Minister that this Government had assumed that in practice the Venezuelan Government has extended most-favored-nation treatment to products imported into Venezuela from the United States; and that this Government hopes that, pending the conclusion of the trade agreement, the Venezuelan Government will find it possible to extend such treatment in practice to such American products as may be imported into Venezuela.

In this connection, you should again point out to the Foreign Minister that this country generalizes to Venezuela all concessions granted in trade agreements negotiated under the authority of the Trade Agreements Act, with the single exception of those granted to Cuba which are not generalized to any third country.

For your information, the Department does not consider it advisable to conclude a *modus vivendi* with Venezuela as it is believed that such action might complicate the trade agreement conversations and would possibly delay the conclusion of a trade agreement.

Please report fully to the Department in what respects Venezuela is not now granting most-favored-nation treatment to the United States.

Also please report fully to the Department any conversations you may have with Venezuelan officials in regard to the foregoing and in regard to the trade-agreement conversations generally, including any comments the Legation may think pertinent.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

611.8131/186

*The Chargé in Venezuela (Braddock) to the Secretary of State*

No. 988

CARACAS, April 21, 1938.

[Received April 26.]

SIR: I have the honor to refer to my telegram no. 34 of April 20, 4 p. m.,<sup>16</sup> and to forward herewith a draft, with English translation, of a note from the Minister of Foreign Affairs, proposing the establishment of a *modus vivendi* to provide for most-favored-nation treatment between the United States and Venezuela pending completion of the trade agreement.

<sup>16</sup> Not printed.

In handing me this draft, Dr. Gil Borges explained that his only motive in making the proposal was to regularize trade relations between the two countries during the trade agreement discussions, so that the Venezuelan Government might properly grant to American products the benefits which it was extending to imports from other countries. He stated that this Government could not well extend most-favored-nation treatment to the United States in practice unless there existed some kind of written agreement between the two countries which would provide for such treatment. The agreement could take the form of a mere exchange of notes which would not require the approval of the Venezuelan Congress. The Foreign Minister indicated that any change in the text of the proposed *modus vivendi* which the Department thought desirable could undoubtedly be made.

As on a previous occasion, I communicated to the Foreign Minister the Department's point of view concerning the *modus vivendi* as stated in its instruction no. 258 of April 5, 1938. Dr. Gil Borges assured me the establishment of the *modus vivendi* would not complicate or delay the negotiations on the trade agreement insofar as Venezuela was concerned, and he stated that he would make every effort to expedite the negotiations as much as possible.

With respect to my note of March 12, transmitting the memorandum which accompanied the Department's instruction no. 250 of March 7,<sup>17</sup> the Foreign Minister informed me that his reply to the text of the note had been ready for some time but that the Minister of Hacienda had not quite completed his study of the Department's break-down of the Venezuelan list. Dr. Gil Borges mentioned that it was a primary part of his Government's economic plan of development to make Venezuela as self sustaining as possible with respect to its demand for food-stuffs, and that, in accordance with this policy, the Venezuelan Government would probably have to restrict very much any concessions it might be asked to make on imports of American food-stuffs.

Respectfully yours,

DANIEL M. BRADDOCK

[Enclosure—Translation]

*Draft Note From the Venezuelan Minister for Foreign Affairs  
(Gil Borges)*

For the purpose of formalizing the result of the conversations which I have had with Your Excellency, I have the honor to inform you that the Government of Venezuela is disposed, pending the conclusion of the reciprocal trade treaty which the two governments have under consideration, to regulate the commercial relations between the two countries by a *modus vivendi* on the basis of the application of the

<sup>17</sup> *Ante*, p. 961.

most-favored-nation clause, in conformity with the following articles:

*Article I.* The products of the soil or of industry originating in and proceeding from the United States of America shall enjoy, on their importation into Venezuela, in all that relates to customs duties, accessory charges, methods of collecting the said duties, as well as rules, formalities and charges to which the operations of custom house dispatch may be subject, the same benefits, privileges and immunities which may be granted to similar products of the soil or of industry originating in and proceeding from any other country.

*Article II.* The most-favored-nation treatment provided for in the foregoing article shall not apply:

1. To the advantages now accorded or which may hereafter be accorded by the United States of Venezuela or by the United States of America to adjacent countries in order to facilitate frontier traffic. Neither shall it apply to advantages resulting from customs unions to which the United States of America or the United States of Venezuela may become a party.

2. To the advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions or the Panama Canal Zone or the Republic of Cuba to one another. The provisions of this paragraph shall continue to apply in respect of any advantages now or hereafter accorded by the United States of America, its territories or possessions or the Panama Canal Zone to one another, irrespective of any change in the political status of any territory or possession of the United States of America.

*Article III.* The products of the soil or of industry of one of the Contracting Parties, after being imported into the territory of the other Contracting Party, may not be encumbered with taxes, contributions or tributes greater than those levied or which may be levied on similar foreign products or articles.

*Article IV.* In the event there is now or may in future be established, for reasons of an economic nature, some form of quantitative restriction or control on the importation or sale of any article in which the other country may be interested, or, upon the importation or sale of a certain amount of any article, the importations originating in and proceeding from the territory of the other Contracting Party shall be granted a treatment both just and as favorable as possible to the products affected, taking into account the statistics of normal interchange between the two countries and the total amount of the quotas to be fixed for each product.

*Article V.* The provisions of the present Agreement shall not apply to the Philippine Islands, the Virgin Islands, American Samoa, the Island of Guam, or to the Panama Canal Zone.

The products of the soil or of industry which originate in and are exported directly from Venezuela to Puerto Rico and from Puerto

Rico to Venezuela are subject to the provisions of the present Agreement.

*Article VI.* This *modus vivendi* shall remain in force for the period of one year counting from its date, but each of the Contracting Parties reserves the right to terminate it, and in the latter case its effects shall cease ninety days following the notice of termination in writing.

*Article VII.* A report of this *modus vivendi* shall be submitted to the National Congress during its next sessions, in conformity with the provisions of Article 17 of the Tariff and Customs Law of Venezuela.

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611.3131/186: Telegram

*The Secretary of State to the Minister in Venezuela (Nicholson)*

WASHINGTON, May 7, 1938—4 p. m.

23. For Daniels. The Legation's despatch No. 988, April 21. A *modus vivendi* of such extensive scope as that proposed by the Foreign Minister necessarily involves a number of questions of policy as well as of drafting, and the Department believes that it would require some weeks to negotiate and that this could hardly fail to delay trade-agreement negotiations.

However, inasmuch as the Venezuelan Government desires a *modus vivendi* pending conclusion of the trade agreement in order to avoid legal or policy difficulties in continuing to grant this country most-favored-nation treatment in the interim, the Department is agreeable to this as a strictly temporary measure. The Department would prefer, however, a brief text confined to customs treatment rather than one dealing incompletely with such questions as internal taxes and quotas. The Department of course hopes during the period of the *modus vivendi* that the Venezuelan Government will consider the broad most-favored-nation provisions covering customs treatment, as also applicable to such matters as quotas, internal taxes, and exchange control.

You may therefore in your discretion propose to the Venezuelan Government the following counter draft of identic notes, *mutatis mutandis*:

Excellency: For the purpose of formalizing the result of the conversations which I have had with Your Excellency, I have the honor to inform you that the Government of Venezuela is disposed, pending the conclusion of the reciprocal trade agreement which the two Governments have under consideration, to regulate the commercial relations between the two countries by a *modus vivendi* on the basis of the application of the most-favored-nation principle, in conformity with the following Articles:

Article I. Both Governments agree to concede reciprocally unconditional and unlimited most-favored-nation treatment in all that



concerns customs duties and all accessory imports, the manner of applying duties as well as the rule and formalities to which customs operations can be submitted.

Article II. The provisions of the foregoing Article shall not apply:

1. To the advantages now accorded or which may hereafter be accorded by the United States of Venezuela or by the United States of America to adjacent countries in order to facilitate frontier traffic; nor shall it apply to advantages resulting from customs unions to which the United States of Venezuela or the United States of America may become a party.

2. To the advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions, or the Panama Canal Zone to one another or to the Republic of Cuba. The provisions of this paragraph shall continue to apply in respect of any advantages now or hereafter accorded by the United States of America, its territories or possessions, or the Panama Canal Zone to one another, irrespective of any change in the political status of any territory or possession of the United States of America.

3. To articles transhipped through Puerto Rico or the Virgin Islands and imported into Venezuela.

Article III. The present agreement shall come into force this . . . day of . . . , 1938, and shall remain in force for a period of one year or until superseded by a more comprehensive commercial agreement, or until denounced by either country by advance written notice of not less than 30 days.

It is understood that a report of this *modus vivendi* shall be submitted to the National Congress of Venezuela during its next sessions, in conformity with the provisions of Article XVII of the Tariff and Customs Law of Venezuela.

Accept, Excellency, the renewed assurances of my highest consideration.

It will be observed that the Department has utilized as much as possible of the Foreign Minister's draft; also, that the Virgin Islands have been included with Puerto Rico at the end of Article II, in order that goods imported into Venezuela, originating in both these territories, would be exempted from the 30 percent surtax. While the Department desires the inclusion of the Virgin Islands, you may, should the Foreign Minister object, eliminate reference to that territory in the *modus vivendi*.

HULL

611.3131/193

*Mr. Paul C. Daniels, Foreign Service Officer on Special Mission, to the Secretary of State*

No. 4

CARACAS, May 12, 1938.

SIR: I have the honor to refer to the Department's telegram no. 23 of May 7, 1938, and to the Legation's telegram no. 41 of today's date <sup>18</sup>

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

referring to the conclusion of a *modus vivendi* between the United States of America and the United States of Venezuela providing for reciprocal most-favored-nation treatment in customs matters.

Upon the receipt of the Department's telegram under reference I immediately made an appointment with Dr. Uslar Pietri, Director of Economic Policy of the Ministry of Foreign Affairs, for Monday afternoon, May 9, to discuss the proposal in further detail. At that interview I handed Dr. Uslar Pietri drafts of notes which might be exchanged between the Legation and the Foreign Office, these drafts being identical in substance to the text transmitted in the Department's telegram of May 7. The proposed drafts appeared acceptable to Dr. Uslar Pietri, and he said he would consult the Minister of Foreign Affairs with a view to ascertaining the opinion of the latter with respect thereto and arranging, if it should be so determined, a date for the exchange of proposed notes. I indicated that so far as the Government of the United States was concerned there was no objection to proceeding immediately with the exchange of notes, and that I would await further word from him as to the date it would be acceptable to Dr. Gil Borges.

On the following day Dr. Uslar Pietri informed me that Dr. Gil Borges had approved the draft notes with very slight modifications, and had decided that it would not be necessary to refer the matter to the Venezuelan Cabinet prior to the signing of the *modus vivendi*. He indicated however that Dr. Gil Borges desired to consult President Lopez Contreras regarding the matter, and later in the day informed me that the President had given his approval.

On the afternoon of May 11 it was arranged with Dr. Uslar Pietri to proceed with the exchange of notes on Thursday morning, May 12. At that time I accompanied the Chargé d'Affaires ad interim, Mr. Braddock, to the Ministry of Foreign Affairs, where the final texts of both notes were compared and found to be identical in tenor, whereupon the two notes were signed by the Minister of Foreign Affairs and Mr. Braddock respectively and exchanged. There are enclosed exact copies of the two notes exchanged, together with a translation of the Venezuelan note. As indicated in the Legation's telegram of today's date it would be appreciated if the Department would telegraph the Legation as soon as possible the date on which simultaneous release of the texts may be effected in Caracas and Washington, in order that appropriate notification may be given to the Venezuelan Minister of Foreign Affairs.

Dr. Gil Borges seemed entirely pleased with the arrangement, and expressed satisfaction that the two Governments were in accord with respect to the principle embodied therein. I expressed the view that with the conclusion of the *modus vivendi* a more solid basis was created

for proceeding with the conclusion of a trade agreement of a more comprehensive nature, and Dr. Gil Borges once more stated that the preparatory work for a trade agreement would be continued without interruption and indicated definitely that there would be no delay on account of the conclusion of the *modus vivendi*. He added that the question of the lists of commodities on which concessions might be sought or granted was a matter of concern primarily to the Ministry of Hacienda and lay outside the province of the Ministry of Foreign Affairs. The interview was most cordial throughout.

Various conversations which I have had in the course of the past week, particularly with Dr. Uslar Pietri, have led me to the conclusion that it was very desirable to conclude at this time with the Government of Venezuela a *modus vivendi* along the lines indicated in the Department's telegram of May 7. To have deferred an agreement such as that now concluded would have meant exposing our trade to the uncertainties in respect of customs duties caused by the recent trend of Venezuelan commercial policy towards a two-column import tariff and preferential treatment for certain countries. The existence of a guarantee of unconditional most-favored-nation treatment at least in tariff matters should be reassuring to American exporters under present conditions, and should, in my opinion, facilitate rather than retard the conclusion of a trade agreement of a more comprehensive nature. Furthermore, the current study being given by the Venezuelan Government to a revision of the Venezuelan import tariff, involving not only the possible creation of a two-column tariff but also a revision of existing tariff rates on various commodities, makes it difficult for Venezuela to enter into contractual agreements on specific tariff rates. Through the operation of the most-favored-nation clause the modification of existing tariff rates by commercial agreements with other countries would in effect constitute a partial revision of the Venezuelan tariff and as such tend to conflict with the complete revision thereof now being undertaken by the Government. This factor may tend to delay negotiations between the United States and Venezuela with respect to specific tariff concessions, and it would appear highly advantageous in the meantime to have at least the guarantee of most-favored-nation treatment in customs matters.

The situation with respect to formal public announcement of trade agreement negotiations remains unchanged from that reported in my despatch no. 3 of May 6.<sup>19</sup> As indicated in that despatch, I have been given to understand that the question of the Venezuelan request list will be discussed on Friday, May 13, at the regular meeting of the Venezuelan Cabinet and that there will be further developments to report early next week. I have made abundantly clear my interest

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<sup>19</sup> Not printed.

in the matter, and have expressed a willingness and a desire to be of all help possible in clarifying any points at issue. The delay which is taking place with respect to this question of the Venezuelan list is an added indication of the advantage of signing today the *modus vivendi* transmitted herewith.

Respectfully yours,

PAUL C. DANIELS

[Enclosure 1]

*The American Chargé (Braddock) to the Venezuelan  
Minister for Foreign Affairs (Gil Borges)*

No. 351

CARACAS, May 12, 1938.

**EXCELLENCY:** For the purpose of formalizing the result of the conversations which I have had with Your Excellency I have the honor to inform you that the Government of the United States of America is disposed, pending the conclusion of the reciprocal trade agreement which the two Governments have under consideration, to regulate the commercial relations between the two countries by a *modus vivendi* on the basis of the application of the most-favored-nation principle, in conformity with the following articles:

Article I. Both Governments agree to concede reciprocally unconditional and unlimited most-favored-nation treatment in all that concerns customs duties and all accessory imposts, the manner of applying duties as well as the rules and formalities to which customs operations can be submitted.

Article II. The provisions of the foregoing article shall not apply:

1. To the advantages now accorded or which may hereafter be accorded by the United States of America or by the United States of Venezuela to adjacent countries in order to facilitate frontier traffic; nor shall it apply to advantages resulting from customs unions to which the United States of America or the United States of Venezuela may become a party.

2. To the advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions or the Panama Canal Zone to one another or to the Republic of Cuba. The provisions of this paragraph shall continue to apply in respect of any advantages now or hereafter accorded by the United States of America, its territories or possessions or the Panama Canal Zone to one another irrespective of any change in the political status of any territory or possession of the United States of America.

3. To articles transshipped through Puerto Rico or the Virgin Islands and imported into Venezuela.

Article III. The present agreement shall come into force on this date and shall remain in force for a period of one year or until superseded by a more comprehensive commercial agreement or until denounced by either country by advance written notice of not less than thirty days.

Accept [etc.]

DANIEL M. BRADDOCK

[Enclosure 2—Translation]

*The Venezuelan Minister for Foreign Affairs (Gil Borges) to the  
American Chargé (Braddock)*

No. 2264

CARACAS, May 12, 1938.

MR. CHARGÉ D'AFFAIRES: For the purpose of formalizing the result of the conversations which I have had with Your Honor I have the honor to inform you that the Government of the United States of Venezuela is disposed, pending the conclusion of the reciprocal trade agreement which the two Governments have under consideration, to regulate the commercial relations between the two countries by a *modus vivendi* on the basis of the application of the most-favored-nation principle, in conformity with the following articles:

Article I. Both Governments agree to concede reciprocally unconditional and unlimited most-favored-nation treatment in all that concerns customs duties and all accessory imposts, the manner of applying duties as well as the rules and formalities to which customs operations can be submitted.

Article II. The provisions of the foregoing article shall not apply:

1. To the advantages now accorded or which may hereafter be accorded by the United States of Venezuela or by the United States of America to adjacent countries in order to facilitate frontier traffic; nor shall it apply to the advantages resulting from customs unions to which the United States of Venezuela or the United States of America may become a party.

2. To the advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions or the Panama Canal Zone to one another or to the Republic of Cuba. The provisions of this paragraph shall continue to apply in respect of any advantages now or hereafter accorded by the United States of America, its territories or possessions or the Panama Canal Zone to one another irrespective of any change in the political status of any territory or possession of the United States of America.

3. To articles transshipped through Puerto Rico or the Virgin Islands and imported into Venezuela.

Article III. The present agreement shall come into force on this date and shall remain in force for a period of one year or until superseded by a more comprehensive commercial agreement or until denounced by either country by advance written notice of not less than thirty days.

I beg Your Honor to accept [etc.]

E. GIL BORGES

611.3131/194 : Telegram

*The Secretary of State to the Minister in Venezuela (Gonzalez)*

[Extract]

WASHINGTON, June 22, 1938—3 p. m.

36. For Daniels.

7. Before discussing the foregoing<sup>20</sup> with the Venezuelan authorities, you should immediately ascertain discreetly their opinion as to the probable duration of the negotiations following the second announcement, and telegraph this information to the Department, together with your own opinion. For your confidential information: because of the long delay and reasons which you will appreciate, the Department would hesitate to issue the public notice and list at an early date unless it could be reasonably expected that negotiations would be concluded and the agreement signed by early September.

8. Upon the receipt of the information requested in 7 above, the Department will instruct you regarding the presentation of the commodity data above and the question of the date of the second announcement.

HULL

611.3131/206 : Telegram

*The Minister in Venezuela (Gonzalez) to the Secretary of State*

CARACAS, June 24, 1938—11 a. m.

[Received 1:35 p. m.]

54. From Daniels. Department's telegram No. 36, June 22, 3 p. m., paragraph 7. In the opinion of Dr. Uslar Pietri and that of the Minister of Foreign Affairs, the general provisions of the proposed trade agreement could be negotiated very rapidly, probably within 2 or 3 weeks. I concur (see my despatch No. 5 of May 25<sup>21</sup>).

With respect to the schedules a longer period of time would necessarily elapse. After the presentation to the Venezuelan Government of our proposals for specific tariff reductions to be made in schedule 1 the procedure would be as follows:

(1) Ministry of Hacienda would study each article on which tariff reductions are requested;

(2) This list would then be forwarded with attached memoranda to Interdepartmental Committees [on?] Tariff Rates for study and discussion;

<sup>20</sup> The previous paragraphs of this telegram gave information regarding a number of minor items being considered in the trade agreement discussions.

<sup>21</sup> Not printed.

- (3) Committee on Tariff Rates forwards its recommendations to the Cabinet for approval;
- (4) List as revised returned to negotiators;
- (5) Further discussion and agreement, if possible.

Dr. UsLAR Pietri (who represents Ministry Foreign Affairs on the Committee on Tariff Rates) states that by exerting pressure it would be possible for the negotiation of the schedules to be condensed within 1 month following formal presentation of our schedule 1 requests. Dr. Tello, the official primarily concerned in the Ministry of Hacienda, inclines to the view that it would probably require 2 months, pointing out the controversial nature of certain agricultural items.

Without knowing precisely the extent to which controversy may arise locally after presentation of a schedule 1 request list it is of course impossible to predict with assurance the probable time required for negotiation. Bearing this in mind I incline to the opinion that the probable duration of negotiations following presentation of our request for specific tariff reductions would be closer to two months than one.

Although it will be seen from the foregoing that it would be difficult to conclude the negotiations early in September, I believe that conditions here for the conclusion of a satisfactory trade agreement with Venezuela are as favorable now as they are apt to be for some time yet to come. [Daniels.]

GONZALEZ

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611.3131/206: Telegram

*The Acting Secretary of State to the Minister in Venezuela (Gonzalez)*

WASHINGTON, June 27, 1938—2 p. m.

38. Your 54, June 24, 11 a. m. For Daniels.

1. You are authorized to discuss immediately with the Venezuelan officials the commodities covered in paragraphs 1 to 6 of the Department's 36, June 22 receding if necessary to their inclusion to the extent therein indicated, in this Government's published list.

2. Please inform those officials that as soon as agreement is reached as to publication of the commodities referred to above, together with those authorized for presentation in the Department's instruction of March 7, an early date can be fixed for publication of the second public notice. Please point out the importance of issuing this notice as soon as possible.

3. The Department believes, on the basis of your 54, that there is a good prospect of negotiations being concluded by early September if the second notice can be published within 10 days and the procedure

indicated below is followed. Department therefore desires you to proceed with negotiations with a view to their earliest conclusion.

4. The Department believes that in order to expedite the negotiations, discussions on the general provisions and schedules should proceed concurrently. Even before the publication of the second public notice you should at once endeavor to reach *ad referendum* agreement on text of the general provisions, and immediately following that notice you may present tentative schedules 1 and 2 which the Department will send by air mail as soon as possible.

5. In view of the foregoing it is important that Venezuelan concurrence in the Department's final position regarding the list for publication be obtained as rapidly as possible.

WELLES

611.3131/208 : Telegram

*The Minister in Venezuela (Gonzalez) to the Secretary of State*

CARACAS, JUNE 27, 1938—3 p. m.

[Received 9:20 p. m.]

55. From Daniels. Department's telegram No. 36, June 22, 3 p. m. paragraph 7 and my reply June 24, 11 a. m. In a conversation this morning with the Minister of Foreign Affairs the latter gave me the impression that a possible postponement of the public announcement would not give the Venezuelan Government cause for concern. He also inclined toward the longer estimate of probable duration of negotiations. He referred to the study currently being given to the revision of the Venezuelan tariff with a view to making it a 2-column tariff (see my despatches No. 3 of May 7 [6]<sup>23</sup> and No. 4 of May 12) and stated that with the unconditional most-favored-nation treatment established by the *modus vivendi* of May 12 the United States would benefit by the minimum rates. [Daniels]

GONZALEZ

[Formal notice of intention to negotiate a trade agreement with Venezuela was issued by the Department of State on July 12. A list of products under consideration for the granting of concessions accompanied the notice. See Department of State, *Press Releases*, July 16, 1938, pages 31ff. Correspondence for the remainder of 1938 on negotiations carried on at Caracas regarding details of the agreement is not printed. The agreement was signed on November 6, 1939 (54 Stat. 2375).]

<sup>23</sup> Not printed.



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