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Foreign
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of the
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States



1937

Volume V

THE AMERICAN
REPUBLICS

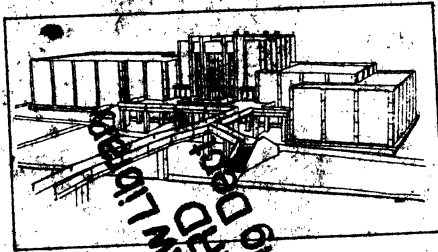
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Foreign Relations
of the
United States
Diplomatic Papers
1937

(In Five Volumes)

Volume V
The American Republics



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PRELIMINARIES TO THE EIGHTH INTERNATIONAL
CONFERENCE OF AMERICAN STATES TO BE HELD AT
LIMA IN 1938¹

710.H Agenda/3

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

WASHINGTON, June 22, 1937.

MY DEAR MR. SECRETARY: I beg to send you herewith three copies of the report of the Subcommittee on Program of the Eighth International Conference of American States,² to which is attached a revised list of topics for possible inclusion in the agenda.

As you will observe, the Governing Board in a covering resolution adopted at the session of June 16, 1937, requests that the Governments communicate their observations or suggestions on this list on or before November 1st, in order that the Board may proceed with the formulation of a project of program. At the same time the Governing Board requests the Governments to transmit with their observations or suggestions, projects which they may have prepared on any of the subjects appearing in the list of topics, in order that they may be distributed among the other Governments.

I beg to remain, my dear Mr. Secretary,

Most sincerely yours,

L. S. ROWE

710.H Agenda/10

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

WASHINGTON, October 28, 1937.

MY DEAR DR. ROWE: With reference to the Revised List of Topics for the Program of 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 of the Pan American Union at its meeting on June 16, 1937, I wish to communicate, through you, to the Governing Board, that the

¹ Continued from *Foreign Relations*, 1936, vol. v, pp. 1-2.

² Eighth International Conference of American States, Lima, Peru, *Report of the Subcommittee on Program, with revised list of topics for possible inclusion in the Agenda* (Washington, Pan American Union.)

Government of the United States has no observations to present regarding the List of Topics for the Program except to suggest that the following topic be included on the Program: Improvement of Inter-American Communications.

The Government of the United States 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 although 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 topic now listed for inclusion in the Program.

Sincerely yours,

CORDELL HULL

710.H Agenda/12

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

WASHINGTON, October 30, 1937.

MY DEAR DR. ROWE: Supplementing my letter of October 28, 1937, concerning the Program for the Eighth International Conference of American States, I wish to suggest that the following topic also be included on the Program: Establishment of Sanctuaries and the Protection of Wild Life in the Americas.

Sincerely yours,

SUMNER WELLES

710.H Agenda/13

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

WASHINGTON, December 6, 1937.

MY DEAR MR. SECRETARY: I beg to send you herewith the Report of the Subcommittee on Program and Regulations of the Eighth International Conference of American States,³ which was approved by the Governing Board at the session of December first and to which is attached a draft of regulations of the Eighth Conference.

May I call your attention to the fact that the Report requests that any observations which your Government may have to make be transmitted to the Pan American Union on or before March 1, 1938.

I beg to remain, my dear Mr. Secretary,

Most sincerely yours,

L. S. ROWE

³ Eighth International Conference of American States, Lima, Peru, *Project of Regulations Submitted to the Governments, members of the Pan American Union by resolution adopted by the Governing Board on December 1, 1937* (Washington, Pan American Union).

710.H Agenda/17

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

WASHINGTON, December 27, 1937.

MY DEAR DR. ROWE: I wish to make further reference to your letter of December 6, 1937, transmitting copies of the Project of Regulations for the Eighth International Conference of American States and requesting that observations concerning the Project be transmitted to the Pan American Union on or before March 1, 1938.

I desire to state that I have no suggestions to offer regarding the Regulations except to express on behalf of the United States of America a preference for article 11 of the Regulations of the Seventh International Conference of American States rather than the corresponding proposed article 11.⁴ Both of the articles in question appear on page 6 of the Report of the Subcommittee and deal with the official languages of the Conference and interpretations. In place of the proposed article 11 it is suggested that the following corresponding article of the Regulations of the Montevideo Conference be substituted:

“Art. 11. Delegates may speak in their own languages from manuscript or otherwise. The interpreters shall render a summary of the speech in the other official languages of the conference, unless the speaker or any delegate may request a complete translation of his remarks.

“The interpreters shall also render in the other official languages the remarks of the president and the secretary general of the Conference.”

Sincerely yours,

CORDELL HULL

⁴The proposed article 11 read: “Art. 11. Delegates may speak in their own languages from manuscript or otherwise, and, if requested, the interpreters shall render a summary of the remarks in the other official languages of the Conference.”

CHACO DISPUTE BETWEEN BOLIVIA AND PARAGUAY: THE CHACO PEACE CONFERENCE¹

[BIBLIOGRAPHICAL NOTE: Department of State Conference Series No. 46: *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); Ministerio de Relaciones Exteriores y Culto, *La Conferencia de Paz del Chaco 1935–1939 (Compilación de Documentos)* (Buenos Aires, Grandes Talleres Gráficos E. L. Frigerio e Hijo, 1939).]

724.34119/836

*The American Delegate to the Chaco Peace Conference (Braden)
to the Secretary of State*

No. 406

BUENOS AIRES, April 20, 1937.

[Received April 27.]

SIR: I have the honor to present for the Department's comments and approval my suggestions on the policy to be pursued in the Chaco Peace Conference negotiations on the territorial question.

That the Chaco Peace Conference has been in session since June 1935² largely may be attributed to and justified by: (a) delays occasioned by the ambiguities of the June 12, 1935, Protocol;³ (b) the inherent difficulties of the problem mostly resulting from the fact that the war ended with theoretically neither a victorious nor a vanquished party; (c) the revolutions in Bolivia and Paraguay;⁴ (d) the intractable personalities of some of the mediatory and ex-belligerent delegates; (e) the Indian suspiciousness especially of the Paraguayans; (f) the precautions made necessary in order to avoid any crisis occurring prior to or during the Maintenance of Peace Conference.⁵ With the exception of (f) these considerations still prevail but are not generally appreciated, hence the Conference must now demonstrate that definite progress towards a final solution is being

¹ Continued from *Foreign Relations*, 1936, vol. v, pp. 35–105.

² See *ibid.*, 1935, vol. iv, pp. 91 ff.

³ See telegram No. 71, June 9, 1935, noon, from the Ambassador in Argentina, *ibid.*, p. 73.

⁴ See *ibid.*, 1936, vol. v, pp. 220 ff. and 858 ff.

⁵ Inter-American Conference for the Maintenance of Peace, Buenos Aires, December 1–23, 1936; see *ibid.*, pp. 3 ff.

made, otherwise its prestige will be undermined, its authority weakened and the opportunity for a final peace lost.

Paraguayan attitude. A few men formerly in power, notably ex-President Ayala and General Estigarribia, realize that it would be advantageous for Paraguay to make certain concessions in order to obtain a settlement and permanent peace. Unfortunately, however, the Franco government is determined to remain in power at all costs and lacks both the courage and intelligence to adopt such a patriotic viewpoint. They fear to make the slightest concession in view of the pressure of short-sighted younger army officers, a sedulously cultivated jingo public opinion and the criticism which political enemies would direct at any agreement. In such circumstances inaction seems best to them—and this accounts for the interminable delays, trifling but time-consuming objections, shameless contradictions and refusals to listen to reason. Furthermore, most Paraguayans are genuinely convinced they won the war, that the Chaco is rightfully theirs, that it would be reprehensible to withdraw one inch from their present positions or extend any port facilities to Bolivia and that were hostilities renewed they would again be victorious. Moreover, great store is set by the June 12 Protocol provision that the Conference cannot be dissolved until the arbitral compromise is definitely agreed upon. Strict compliance with this clause would enable the Paraguayans, through their insistence upon the inclusion of unreasonable conditions, to defer more or less indefinitely the drafting of the arbitral compromise; thus their Fabian tactics would keep the Conference alive and *ipso facto* leave them, guaranteed by the six mediatory nations, in their war's-end positions in the Chaco. . . .

Bolivian attitude. Many Bolivians believe, with some reason according to neutral military authorities, that were hostilities renewed Paraguay would be driven eastward. But the ex-combatants are war-weary and prefer a face-saving settlement. Certain mining and financial interests, pursuant to arguments gradually developed by Ambassador Nieto of Chile and myself during the last year, now state that they are willing to supply up to £200,000 for payment to Paraguay as an inducement for a final settlement. Foreign Minister Finot frequently acts or speaks precipitously and unwisely but so far when the facts are presented has been willing to resume a reasonable course. Dr. Alvéstequi, chairman of the Bolivian delegation, until now has been intelligent and cooperative.

Mediatory nations' attitude. Chile realizes that a failure to conclude a definitive Chaco peace might entail a renewal by Bolivia of annoying attempts to obtain an outlet to the Pacific. Ambassador Nieto, together with a few other Chileans, believes that a corridor to the ocean should eventually be ceded to Bolivia but does not wish

the question forced upon Chile now. Hence Chile desires a final settlement which, insofar as possible, will be satisfactory to Bolivia. Ambassador Nieto throughout has been one of the most useful members of the Conference. Last November he presented his credentials as Ambassador in Brazil; twice I have intervened in order to obtain his continued presence here until now, but in another thirty days he must depart for Rio de Janeiro . . .

Peru logically might be expected to have the same attitude as Chile but instead the Lima government so far has shown relatively small interest in the negotiations. . . .

Uruguay appears to have scant interest one way or the other. Delegate Manini Ríos was helpful until he, in effect, withdrew from our deliberations in December 1935. . . .

Brazil's contribution has been of the greatest value and Ambassador Rodrigues Alves the ablest member of the Conference. Unfortunately, despite his two months' vacation during January to March of this year Dr. Rodrigues Alves is worn by the grind of the Conference and, notwithstanding such encouragement as I have been able to give him, is developing a defeatist attitude towards the Chaco problem, which I sense is reflected in the Brazilian Foreign Office.

Argentina's antagonism during most of 1936 to the Franco régime has evaporated and there is reason to believe that the appalling delay of three months in getting the Special Military Commission to the Chaco is partly due to Argentine (Saavedra Lamas?) willingness to play the Paraguayan game of procrastination—an assumption which coincides with the widely held impression that Argentina directly assisted Paraguay during the war.

.

In view of the serious situation we now face it appears advisable that soon an appeal should be made to President Justo to restrain his Foreign Minister. Ambassadors Rodrigues Alves, Nieto and I already have taken certain steps in this direction and hope to discuss the situation frankly and fully with acting president Julio Roca at a dinner to be attended only by the four of us and which Nieto hopes to arrange within the next week or ten days.

An appeal to the personal pride of President Justo and Dr. Saavedra Lamas should be effective—on the basis that for them to go out of office this year with the Chaco question unsettled would more than destroy any credit (including the Nobel prize)^e they might have received in its composition to date.

My interpretation of the United States attitude is: Being entirely free of any direct interest in the dispute our sole objective is the

^e Carlos Saavedra Lamas received the Nobel Peace Prize for 1936.

consummation of a permanent peace between Bolivia and Paraguay, not alone for reasons of humanity and good neighborliness but still more to prevent the almost inevitable resumption of war, sooner or later, following upon a failure of the Conference. Of greater importance than the Chaco or the pretensions of the two ex-belligerent nations is the preservation of the laboriously constructed American peace system recently strengthened at the Maintenance of Peace Conference. Another war would greatly damage this peace structure and probably throw back to European influence those discouraged elements of Latin America which under the recent strong leadership of the United States have been signally oriented toward pan-American cooperation. So prominent has been our Latin American policy that a failure of this Conference would react with especial force on the United States. Also, there would be loss of prestige for all the mediatory governments and the heaping of reproach and ridicule upon the individuals involved.

It is an accomplishment for the Conference that the Bolivian Foreign Minister and delegates now, in private conversations with Ambassador Rodrigues Alves, Nieto and me, frankly contemplate a final agreement which would: (a) give Bolivia a free instead of a sovereign port on the Paraguay river; (b) establish a permanent frontier 75 to 150 kilometers east of the intermediary line; (c) have Bolivia pay £200,000 to Paraguay. These terms should satisfy Paraguay—ex-President Ayala and General Estigarribia, I am sure, would approve them—but unhappily it is quite another matter to obtain their acceptance by the Franco government. In fact, Ambassador Nieto of Chile and I are the only two persons acquainted with the negotiations who see any chance for a territorial settlement. This chance may be slight but so long as it exists the mediatory nations, in a united front, must redouble their efforts, patience and ingenuity in order to achieve a territorial agreement.

From the foregoing analysis of the situation it becomes obvious that the principal obstacle to a final peace is the frame of mind of present Paraguayan leaders. In order to bring them to reason two methods are at hand: inducement and pressure.

Regardless of whether or not the transit and security regulations¹ are accepted the trips of certain mediatory delegates—notably Ambassador Rodrigues Alves of Brazil, Ambassador Nieto del Río of Chile, Dr. Bunge of Argentina and myself—to La Paz and Asunción should be taken as soon as possible. On our visit to the latter city it will be necessary for us to approach those really in control, one after another, and convince them of the manifold advantages of a

¹ See Department of State Conference Series No. 46: *The Chaco Peace Conference*, pp. 23, 106, 108.

settlement which may be synthetized as follows: Peace will allow full and free economic development, foreign capital will feel safer, and a cash payment from Bolivia is a prize much needed to bolster sadly deficient public finances. Paraguayan objectives in the war will be substantially satisfied by apportioning to that country a major portion of the Chaco and the refusal of a sovereign port to Bolivia. On the other hand, Paraguay cannot expect to repeat her successes of the recent war but, on the contrary, may be driven back so that a far less satisfactory settlement would result from another conflict. In urging the delegates' trips to Asunción I am not forgetful of the possible embarrassments which may arise and that we may be treated in cavalier fashion; nevertheless, I think these visits should be taken.

All possible legitimate pressure must be applied to Paraguay. In so doing it is essential that the six mediatory countries present a single front. Argentina, by reason of its unique influence in Paraguay, and the United States, because of its impartiality, will carry the greatest weight.

Any course now laid down for the territorial discussions may have to be changed because of future developments but the present program for the Conference is as follows:

In accordance with the plan approved by the Conference on December 25, 1936 (see my despatch No. 353^a), a time limit (not more than two to three months) to be set for the active, direct negotiation of a possible frontier. On its expiration should an agreement not be in view a further period (not to exceed four months) to be allotted for the drafting of an arbitral compromise for submission to the Permanent Court of International Justice. Delegates' trips to the ex-belligerent countries to be made during the above two periods. Should the draft agreement not be in sight at the conclusion of this latter period the Conference to adjourn and issue a declaration placing the blame where it belongs—probably, Paraguayan disinclination to reason. Were this procedure to be followed Paraguay could, and undoubtedly would, allege that the six mediatory nations had violated their solemn agreement under the June 12, 1935, Protocol (Article I (3), second paragraph) not to adjourn the Conference until a definite accord had been reached. Yet these six powers should not be forced to act as tools of Paraguayan intransigence and to remain indefinitely as the guardians of a Paraguayan occupation of disputed territory—an occupation which is recognized as temporary by the Protocols. Thus we are between the Scylla of a failure strictly to comply with our international commitments under the Protocols and the Charybdis of violating the spirit of those same instruments. If we follow the latter course we stultify ourselves, subject Bolivia to an injustice

^a Dated January 14, 1937; not printed.

and open the way to future conflict. Therefore, it is my opinion that the Conference must place a time limit on its deliberations but I would like to receive the Department's views in this particular.

The threat of a Conference declaration along the above lines might bring Paraguay to heel. It is even possible that its issuance would upset the Franco régime, bringing in other politicians who—especially if they have General Estigarribia at their head—would be willing to compromise and effect a settlement.

I submit the following specific recommendations for possible action by the Department:

(a) That appropriate representations be made to the five other mediatory Foreign Offices, but especially to those of Brazil and Argentina, calling upon them for renewed and vigorous efforts in an attempt to reach a successful conclusion. Also, it would be beneficial were the Chilean government induced to continue Ambassador Nieto at the Peace Conference.

(b) At an appropriate moment, to be indicated by me, the presentation to the Paraguayan government by the American Minister in Asunción of a strong message stating United States expectation that a reasonable accord will be reached and that further delay be eschewed.

(c) Unremitting pressure on the Paraguayan Minister in Washington.

(d) Perhaps some use might be made of the Trade Agreements holding out a favorable accord as an inducement for Paraguay's making peace with Bolivia.

The Department's instructions, comments and suggestions are earnestly requested in view of the serious nature of the status of negotiations here.

Respectfully yours,

SPRUILLE BRADEN

724.34119/836

The Secretary of State to the American Delegate (Braden)

WASHINGTON, May 7, 1937.

SIR: With reference to your despatch No. 406 of April 20, 1937, following are the Department's views with respect to the specific recommendations made by you regarding the further course of negotiations.

The necessity for a vigorous effort to reach a settlement on the territorial issue has been urged upon both the Argentine and Brazilian Ambassadors during conversations with them at the Department. This policy will be continued whenever the opportunity arises.

The Department would be prepared to send a message to the Paraguayan Government as indicated in paragraph (b) on page 12 of

your despatch, contingent upon the situation calling for such action and upon circumstances being opportune.

Whenever the Paraguayan Minister has come to the Department, occasion has been taken to talk with him about the desirability of reaching a definitive settlement of the territorial issue. This procedure also will be continued.

The Department is of the opinion that the trade agreements program cannot be used in any effective manner to induce favorable action in the Chaco negotiations upon the part of the Paraguayan Government.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

724.34119/864

The American Delegate (Braden) to the Secretary of State

No. 420

BUENOS AIRES, May 7, 1937.

[Received May 18.]

SIR: I have the honor to transmit in Spanish text and English translation a memorandum of the conversation which took place at the dinner with General Justo, President of the Argentine Republic, on April 29. The dinner was reported briefly in my telegram No. 63 of April 30, 6 p. m.⁹

Each of the three delegates participating in the dinner have retained one signed copy. This memorandum is being made available only to the Brazilian and Chilean Foreign Offices and the State Department.

Respectfully yours,

SPRUILLE BRADEN

[Enclosure—Translation]

MEMORANDUM OF CONVERSATION BETWEEN AMBASSADORS RODRIGUES ALVES, BRADEN AND NIETO DEL RÍO AND PRESIDENT JUSTO AT THE DINNER GIVEN BY VICE PRESIDENT ROCA ON APRIL 29, 1937 AT 9:30 P. M. IN THE PRIVATE DINING ROOM OF THE PLAZA HOTEL, THE MINISTER OF FOREIGN RELATIONS SR. SAAVEDRA LAMAS BEING ALSO PRESENT

The Special Delegates Ambassadors of the United States of America, Brazil and Chile, distressed at the slow pace that the President of the Conference wishes to give to the fundamental negotiations, in opposition to the views of their respective governments in putting an end as soon as possible to the territorial dispute of the Chaco, considered the situation and arrived at the following conclusions:

⁹ Not printed.

1) A lamentable atmosphere is being created by the delays of the Conference: In Bolivia a spirit of disillusion and desperation and in Paraguay a growing intransigence since its program of procrastination prospers;

2) There is need to arrive at a solution before the end of the term of office of President Justo;

3) That the resolution adopted at the session of December 25, 1936 must be kept in mind, whereby a system of time limits was suggested by the Committee of Three;

4) That the indefinite prolongation of the Conference is inadmissible without concrete expectation of a solution;

5) That there is a grave danger of the renewal of hostilities in case the Conference through inaction or consideration of extreme positions, maintains the actual *status quo*;

6) That a new conflict in the Chaco would destroy the American Peace system and would bring disrepute upon all the mediatory governments;

7) That the fundamental question may be avoided only through a real rebellion of the parties, or of one of them, to the letter and the spirit of the Protocols, the Conference in that case having to indicate precisely the causes which oblige it to desist from mediation;

8) That the President of the Conference was taking as acts of sabotage on the part of certain Delegations, the loyal efforts looking to avoid a rupture of the same, renewing suspicions and fears which he showed every time at moments of crisis when he did not see a possibility of solution.

These conclusions having been examined from all angles, the means were studied to influence the spirit of the President of the Conference to make him change his policies. In various sessions ideas of this nature were voiced, especially when it was necessary to exercise real pressure for the quick termination of the Regulations on the road and the distancing of the nuclei of troops. In private conversations also, we tried to reflect the urgency of the solution of the fundamental question, but all this without arriving at a definite answer from Sr. Saavedra Lamas, whose general attitude is the deprecation of ideas. It was also necessary to take into account the attitude of General Martínez Pita, President of the Special Military Commission, which has the same tendencies as those of Sr. Saavedra Lamas, the former having stated that politicians and diplomats make the Chaco more confused, whose solution only military men can achieve. And lastly, we had to consider the Paraguayan policy which consists in delaying the fundamental solution as much as possible, since nothing interests it except the consolidation of the occupied territory.

Convinced that direct action on Sr. Saavedra Lamas would not have the desired effect, the Delegate of Chile proposed and the idea was accepted, to seek an intimate conversation with Dr. Julio Roca, Vice President of the Republic, then Acting President, so that he might carry the result to the knowledge of the President of the Nation. The

said delegate invited Dr. Roca to dine with Delegates Rodrigues Alves and Braden on April 23 in a private dining room of the Plaza Hotel. With the necessary prudence, the situation was explained to the Vice President. Convinced of the value of our observations, Dr. Roca promised to speak to General Justo and moreover, to demonstrate the personal interest which he had in helping and the consideration which he had for the three delegates, suggested the idea of having in the same place a dinner with the President of the Republic and the Minister of Foreign Relations, which was naturally accepted, as it was considered of great importance. Dr. Roca suggested extending the invitation to the other delegates. The representatives pointed out to Dr. Roca that the others are permanent Ambassadors accredited to the Argentine Government, which would prevent them from expressing their opinions with the full freedom which the case demanded, the reason for which the Chilean Delegate had not invited them.

In short, the conversation with Dr. Roca was the greatest opportunity. With the well known correctness of his conduct as the perfect gentleman, he informed the Foreign Minister of the invitation which had been extended to him. The first question which he set forth was that the success of the Conference depended on the individual disinterestedness that each of the mediatory governments would display, since if each one, or some, pursued determined advantages at the expense of a solution of the Chaco, then the unity of the Conference was lost and with it the possibility of reaching a common objective. It was easy to see that Sr. Saavedra Lamas had thrown over the spirit of the Vice President an odious doubt regarding the mediators. He had once more expressed his lack of confidence in the other governments and his obsession of sabotage. With energy and an abundance of arguments, the Delegates took away from Dr. Roca the last trace of doubt that the words of the Foreign Minister might have left there. He suggested action by the presidents of the other mediatory countries to collaborate with the Argentine Executive.

He was then shown the extreme urgency of reaching the fundamental question, this being principally based on the nearness of the presidential elections in Argentina and the danger of war which would be brought on by the unjustified abandonment of the question while one of the parties is in possession of territory under discussion. Since the procedure to be followed is laid down in the Protocols, there is no valid reason not to exercise the authority that the mediatory countries have.

The Delegates had a satisfactory impression of the step they had just taken, without discounting the dangers in it, since in the last analysis the conversation with Dr. Roca and that which they would

soon have with H. E. the President consisted in very daring diplomacy. But they would have no reason to regret it, no matter what were the consequences, in view of the attitude of the Argentine Foreign Minister which was evaluated as being fatal for the peace of America and the prestige of the mediatory governments. Moreover, the eminent personality of Dr. Roca, free of all international prejudices, as well as that no less eminent one of General Justo, were sufficient protection for the propriety of the delicate step.

On Thursday, April 29, the dinner with the President of the Nation occurred in the same place as before. The Delegates had beforehand exchanged ideas and decided what it would be necessary to discuss. It was early seen that Sr. Saavedra Lamas was trying to keep the conversation on subjects foreign to the principal objective, an easy thing for him who possesses in the highest measure a gift of talking. Two or three attempts to broach the subject were turned off with undisguised design. Finally, the President himself cleverly made the opening for discussion of the matter.

The conversation may be resumed as follows:

Delegate of the United States:

While we are all keenly aware of the urgent necessity of arriving at a territorial settlement, and look with horror upon the possible renewal of hostilities with all of the bloodshed and suffering involved, nevertheless, more important than these considerations or the interests of Bolivia and Paraguay is the preservation of the American peace system developed by President Justo and his Foreign Minister, together with the other presidents and foreign ministers, particularly of the mediatory nations. Naturally I am especially concerned respecting my own president—President Roosevelt—and Secretary Hull, and that their contributions to this system shall not be dissipated through a renewal of hostilities. Certainly another Chaco war would do untold damage to the American peace system and to the authority and prestige of all our presidents and statesmen and would bring ridicule upon us delegates who have been directly involved in the negotiations.

I am entirely convinced that if we fail to reach a solution to the territorial problem another war is inevitable. Two things may happen: (a) If the Bolivians feel that they have sufficient documentary and other evidence in hand as a result of the various Conference declarations and agreements they may make a unilateral appeal to the Permanent Court of International Justice in order to place themselves in a strong legal position and prove to the world that they are not the aggressors in a new war. (b) If the Bolivians did not follow this course then within a month from the date of the failure of

the Peace Conference the Bolivians would seize the road and the adjacent territory. There is in Bolivia a certain spirit of revenge. The younger army officers, headed by Colonel Busch, are determined to erase the black marks of defeat.

Ambassador Braden said that while he greatly respected General Martínez Pita's opinion, in this instance he could not agree with him. In fact, the very distinguished position held by General Martínez Pita—General of Division of the Argentine army, President of the Special Military Commission and Special Delegate—placed him in a position where he was regarded with awe by the ex-belligerent lesser officers so that during his short stay in the Chaco—one week in Asunción and five or six days in Villa Montes—those officers did not dare display to him their real sentiments. Whereas, Major Weeks,¹⁰ in addition to the trips made in company with General Martínez Pita, has lived for six months in the Chaco during 1936 where he slept, ate, drank, played cards with and was on terms of intimate comradeship with both the Bolivian and Paraguayan officers, who have unbosomed themselves to him frankly. Major Weeks declares that if the Conference fails he considers that there is an 80% probability that war will be renewed within a year and thereafter this percentage will increase rapidly.

The American Delegate joined with his colleagues to insist that the mediatory nations must, as a unit, attack the territorial question with determination, energy and with the exercise of all the influence and prestige within their power.

At an opportune moment, in answer to a question by President Justo, Ambassador Braden explained why the other delegates were not present. The three that were present, he said, had no duties outside the Conference. We eat, sleep and breathe the Chaco and therefore can and do dedicate all our time and effort to it. He added that nevertheless, the other delegates were entirely in accord with the program to pursue the territorial question energetically in order to conclude a final peace before President Justo and Sr. Saavedra Lamas left office. He then read a statement which that very afternoon he had read to the Conference in the name of his government:

"In view of the seriousness of the deliberations on which we are now entering, I keep the State Department informed of all the details possible. I am therefore pleased to inform Your Excellencies that my government has instructed me to express its pleasure at the fact that all the mediatory delegates agree completely with my statement made at the meeting of April 21 and repeated yesterday. That is, that we are resolved to go to the bottom of the territorial question with energy, wholeheartedness and determination, giving at the same

¹⁰ Maj. John A. Weeks, Military Observer for the United States, member of the Special Military Commission.

time sufficient publicity to our activities so that the world may know of our labors. In accordance with this firm intention of the Conference my government agrees with our resolution taken yesterday but believes that the only chance of success lies in our being prepared to meet everyday and if necessary, all day, at any time and any place—i. e. imitating the work which was so effective in seeking a solution for the prisoners' problem, a procedure which it is easy to follow.

"Several of the mediatory nations have special ambassadors accredited to the Conference who devote their time exclusively to the Chaco and are disposed at all times to give their collaboration to the intense work required by the Conference in accordance with the plan of time limits fixed and approved by the Conference as its own internal program from now on at the meeting of December 25 last."

The delegate added that the program outlined therein had met with unanimous approval, and Sr. Saavedra Lamas said he agreed and that this was an accurate statement of the program.

In entire agreement with the opinion of his colleagues Ambassador Braden further emphasized that there was complete accord and unity between each and every one of the mediatory delegates and repeated his simile previously made that the Conference might be compared to a football team, in which individual skill only is of little use, for victory cannot be obtained excepting through complete coordination and team play.

President Justo remarked that the presidents of the other five mediatory nations might also help the Conference to which he replied that undoubtedly they could and would do so when called upon, but that in the final analysis the playing field was in Buenos Aires and therefore President Justo's intervention would prove the most effective.

When Sr. Saavedra Lamas objected that President Justo should not be requested to intervene unless the Conference were absolutely sure of success on the territorial question Ambassador Braden rejoined that a Conference failure would be a greater blow to President Justo's prestige and that precisely to protect his prestige it would be desirable for him to exercise his great influence and power.

Upon President Justo's expressing some doubts as to whether the intransigence of the parties could be overcome, the American delegate replied that he had reached his position as a leader of a great nation only by boldly facing stubborn intransigence and that many a time he undoubtedly had overcome what appeared to be unsurmountable obstacles by sheer determination and energy and that the Conference, with the President's support, could with similar determination and energy confidently overcome all obstacles and reach the final peace.

Delegate of Brazil:

The Brazilian Ambassador, when he took part in the conversation, insisted on the need to observe the time limits fixed in the session of

December 25, since it was not possible for the Conference to meet indefinitely, awaiting that the parties should arrive at a direct agreement. And later added: One must not lose sight of the fact that the Conference was born in Buenos Aires at the time of the visit of President Vargas, taking advantage of the magnificent atmosphere and under the propitious situation of an extensive cordiality throughout America. It was called by President Justo and it must end before the expiration of the actual administration. The administration to come will not have the same interests or the same responsibility as that which called it and would find the subject already worn by the natural action of the elapsed time. We therefore must hurry, that the fundamental question may be considered with a will to solve it as soon as possible using every effort to reach this goal. This is the desire of all the delegates which have maintained an unmovable solidarity. Let us take advantage of this spirit and we will arrive at the end of our difficult task. The Delegate of Brazil pointed out that this was the opinion of his government which has no other aim than to cooperate with all the mediators, with the hope that the solution will come out of Buenos Aires.

He maintained the same arguments as Ambassadors Nieto and Braden on the dangers to which we were exposed, of a new armed conflict on the day the parties should feel helpless and on their own. On account of this, he said, come our justified apprehensions and fears. This is not a baseless opinion, since our Military Observers who have lived the life of the Chaco in the most complete intimacy with Paraguayan and Bolivian officers had received the same painful impression.

The argument of Nieto's that we had a sum of money which Bolivia is willing to put at the disposal of the Conference once the problem were about to be definitely solved, caused a profound impression. For the rich men of Bolivia, that is the miners, are those who suffered most during the war and will continue to suffer before the uncertainties and dangers of a new war.

Delegate of Chile:

The Chilean Ambassador from the beginning of the conversation pointed out the real dangers of a new war if the Conference without justified and categorical reason left things as they are under the pretext that calm and prudence are advisable when it is not necessary to call upon them, but on the contrary to use them in the measure that they are ordinarily used in any serious endeavor, while now the need was especially for authority and the prestige of mediation to overcome the tendency to be seen in Paraguay to consolidate its conquests over a territory in dispute. It is necessary to clear up the procedure in accordance with the time limits adopted at the session of December

25, 1936. He quoted the opinion of reliable military men, such as General Fuentes, Major Weeks and Captain Bastos, besides other trustworthy reports. He said it would be sad to arrive at the VIII Pan American Conference in Lima¹¹ with a war impending, or without having resolved the territorial question.

He then said to the President that he had in his hands the opportunity to take advantage of the excellent disposition of Chile, Brazil and the United States to arrive at a rapid solution, since these countries had a close unity of views, a single complete loyalty to the work of the Conference and a common desire not to lose time. That moreover, none of them nor the other mediatory countries had special interests or advantages to obtain from a solution of the Chaco, aside from the common advantage of international peace. To a question of the President as to what could be effectively done to initiate the fundamental question, the Delegate of Chile answered that there would be many ways of giving an atmosphere of authority to the negotiations; that at the moment a means of great effect occurred to him, that the debate on the problem be declared solemnly open in a session with the parties, given added dignity if presided over by H. E. the President of the Argentine Republic, which in no way would mean a diminution of the authority of the President of the Conference. The delegate recalled that the presidents of Chile and Argentina had personally risked their prestige in taking the initiative in stopping a war which was raging; that President Justo had inaugurated the Chaco Conference without any assurance of success; that President Roosevelt had come to Buenos Aires to open the Conference for the Maintenance of Peace. The Delegate of Chile supported all the views of his colleagues on the principal points of the conversation. At the last, Ambassador Nieto said more or less as follows: "I believe, Mr. Minister, that an understanding will not be so difficult if at a given moment pecuniary compensation is called into play. On this I have something to say. It would be almost a lack of respect to ask of H. E. the President of the Nation and the Foreign Minister, to keep this completely confidential; but I dare to ask it for the good success of the negotiations. I may assure you that Bolivia will supply a considerable sum of money, perhaps two hundred thousand pounds, for a prompt and good arrangement. After long negotiations which began last year, just as in the case of the subsidy for the prisoners, the final word I obtained a few days ago from my Bolivian mining friends, so that the Conference has at its disposal a most useful element—a *nervum rerum*—to convince the Paraguayan government, if we do not allow a long time to pass, for we must be aware of the price of tin."

¹¹ See pp. 1 ff.

The Minister of Foreign Relations:

He insisted various times on the need to conduct the fundamental negotiations slowly, step by step, seeking out all the means of prudence. He referred quickly to the unstable conditions of the internal politics of Paraguay and Bolivia. He maintained with tenacity the non-existence of any danger of the renewal of hostilities, saying that this was the opinion of the Argentine military officers, General Martínez Pita, Captain Vacca, etc., for Bolivia after its warlike shattering was not in a situation to renew the war, nor was Paraguay due to the latter's financial weakness. He gave no value whatever to the contrary opinions set forth by the delegates on the logical basis of the reports of their military men. He rejected the idea of direct action by President Justo, before there were assurances of an arrangement. He gave some attention to the report by the Delegate of Chile regarding the sum of money which could be counted on, but this impression did not determine him to outline any plan for rapid action, but on the contrary repeated his comments favoring the policy of indefinite time. When he was reminded of the definite time limits which he himself had enthusiastically adopted at the session of December 25, he was quiet as though surprised at something that he did not recall. When the President interrupted him to add the words "and firmness" to those of tranquillity and patience which he had used, the Foreign Minister did not give any sign of agreeing with the clear intent of General Justo, nor at the time that the Delegate of Brazil repeated these words. He had the same indifferent attitude when after dinner the President gave a graphic representation with fists and foot of a reply General Foch gave on the way in which he expected to resolve the problems of the Single Command during the Great War.

In short, the delegates had the following impressions:

1) That the Foreign Minister saw with profound displeasure this meeting for the purpose of showing the President and Vice President that the Conference is taking a wrong course under the policy of Sr. Saavedra Lamas.

2) That the President got a thorough idea of the object of the meeting and, although he did not exactly indicate what he intended to do, used the word "firmness" in a tone equivalent to an order directed at his Minister for Foreign Relations.

3) That he got a direct statement that there were no individual interests nor divergent opinions among the mediatory nations, and moreover that they were probably circulated by the Foreign Minister to conspire against the Buenos Aires negotiations.

4) That the mediators are interested in having the subject liquidated before the end of his administration.

5) That no pretext would be good to undo the effects of the Inter-American Conference for the Maintenance of Peace.

6) That at least the opinions and rationalizations of Sr. Saavedra Lamas that he might have used to support his dilatory policy have been weakened in the mind of the President, since he cannot overlook those to the contrary expressed in all frankness by the delegates of three friendly countries.

7) That Sr. Saavedra Lamas, through wounded *amour propre*, may increase his policy, carrying it into the realm of personalities, and in this case it is incumbent upon the governments to keep together and to seek the support of General Justo who is more disposed to accommodating action.

These are the impressions of the three delegates who sign the present document, drafted by Ambassador Nieto del Río and approved after close examination. The facts and résumé of the conversations are correct.

[File copy not signed]

724.34119/970

The American Delegate (Braden) to the Secretary of State

No. 474

BUENOS AIRES, August 4, 1937.

[Received August 16.]

SIR: I have the honor to refer to my despatch No. 406 of April 20, 1937, wherein I commented on the many delays encountered by the Peace Conference and stated that "the Conference must now demonstrate that definite progress towards a final solution is being made, otherwise its prestige will be undermined, its authority weakened and the opportunity for a final peace lost".

On April 23 the Conference formally approved the regulations for transit, control, and policing;¹² on June 16 Colonel Trabal (Uruguayan Army) and Captain Vacca (Argentine Army) were despatched to the Chaco to put the regulations in force; on May 25 the Bolivian and Paraguayan Foreign Ministers exchanged telegrams declaring diplomatic relations renewed; on June 8 the Conference resolved that direct negotiations on the fundamental question were opened; and on July 12 the Conference reaffirmed this resolution. Nevertheless, the regulations are not in force; ministers have not been appointed, hence diplomatic relations have not been effectively renewed; and little useful discussion on the territorial question has been had in the Conference since last December.

This lamentable state of affairs, aside from those reasons listed in my aforesaid despatch No. 406, in my opinion may be ascribed to a combination of the following:

¹² See *The Chaco Peace Conference*, pp. 23, 106, 108.

(a) Unfortunately phrased public statements by Dr. Stefanich, Paraguayan Foreign Minister, and also by Dr. Finot, Bolivian ex-Foreign Minister, in contravention of their solemn promises to refrain from so doing.

(b) Further delays and quibbling over interpretations by the Paraguayans through Dr. Ramírez, head of their delegation.

(c) As I have, on various occasions, informed the Department, it has become increasingly apparent during the last several months that the supreme consideration of Dr. Saavedra Lamas, Conference president, is to preserve his personal reputation as the Great Peacemaker. He fears to face the difficulties which necessarily will arise in the territorial negotiations or the drafting of the arbitral compromise and frequently has admitted of late that his earnest hope is to pass the Chaco question to the World Court for solution. Failing in this, his program will be through procrastination and obstruction to avoid the Conference actively entering the territorial negotiations until he has retired from office, so that the responsibility will fall on his successor as Foreign Minister and Conference president. Last year, at Geneva and elsewhere, he had it widely circulated that nothing remained to be settled in the Chaco but a mere question of boundaries such as exists between many countries (*sic*). Thus, he would disparage success as an unimportant detail made possible by his own efforts, and ridicule failure as evidence of incompetence by his successor in contrast to the accomplishments attained under his own leadership.

(d) Dr. Saavedra Lamas' desire for Argentine domination—at least economically—over the Chaco and southeastern Bolivia, coupled with a fantastic fear that his country is surrounded by envious neighbors who are forming "blocs" with one another directed against Argentine interests. This reasoning by the Foreign Minister perhaps leads him to believe that the best policy to pursue is either to make the final peace alone, free from the other mediatory powers, or to perpetuate the division between at least two of Argentina's five neighbors—*divide et impera*.

The Conference failure to make measurable progress this year may largely be attributed to (c), although (a) and (b) definitely are factors. I mention (d) as a possibility, although I am not prepared to affirm that it has been an element of any importance.

Now, in my opinion, the essential facts are:

1. The Conference, during 1937, can point to little, if any, constructive accomplishment.

2. Enough is known of the opposing Bolivian and Paraguayan theses to warrant the belief that a final territorial agreement, though extremely difficult of attainment, nevertheless is possible if only a determined, intelligent, uninterrupted effort be made by the Conference. Whether such an intensive effort can be had under the presidency of Dr. Saavedra Lamas remains to be seen.

3. Unless a solution of the territorial question can be reached by the Conference another Chaco War, sooner or later, will be inevitable.

4. The evasive, face-saving program of Dr. Saavedra Lamas outlined under (c) will not solve the territorial differences but on the contrary will open the way for a renewal of hostilities.

5. Interpreting what I understand to be the Department's wishes, my attitude in the Conference has always been that every conceivable effort must be made to arrive at a solution of the Chaco problem at this Conference, and if possible before the Justo government goes out of office.

6. Previously, my Brazilian and Chilean colleagues (Ambassadors Rodrigues Alves and Nieto del Río) and I have been able to circumvent Dr. Saavedra Lamas' personal peculiarities, delays and obstructions by reasoning, flattery, and other means, doubtless because his and our final objectives were then identical; now they are different and it has been amply proven that our former methods with him no longer are successful. Therefore they must be changed.

As the opening broadside in my new campaign (activating the dismay at the *El Mundo* article transmitted in my despatch No. 468 of July 29, 1937¹³), I read my enclosed statement of July 30 at the Conference session held that day at my insistence after it had been cancelled by Dr. Saavedra Lamas. He did not attend. It had a decided effect. Also, it brought out the fact that my Uruguayan and Peruvian colleagues apparently have not been presenting to their governments a true picture of the sad course of this Conference, and they made it clear to me that were my statement to appear in the minutes they would be subject to criticism by their governments. I therefore agreed that it should not appear in the minutes but threatened to read it in should there be any further cancellation of meetings and procrastination. This mild piece of blackmail will, I hope, have a salutary effect. During the session of July 30 I likewise commented upon the unjustifiable number of meetings which had been cancelled (see enclosed schedule for July).¹³

As a second step in my program I refer to the special report from the Military Observers dated July 28 and the personal letter dated July 27 addressed to me by Major John A. Weeks, both enclosed with my despatch No. 473 of August 2, 1937.¹³ The situation described in those two communications is dangerous and, in view of that fact, at the session of August 2 I read the statement appearing as enclosure No. 2. The essential was the removal of Bolivian and Paraguayan troops from their present positions almost in contact with one another. Hence when Sr. Ramírez, Paraguayan delegate, was invited to the meeting, he was informed this withdrawal of the troops from near the line of "hitos" must take place without delay. I repeated to him that

¹³ Not printed.

if this is not done, I shall in duty bound have to recommend to my government that it discontinue its moral guarantee. Sr. Ramírez did not answer; this may be an indication that he was impressed.

Needless to say, I shall, as heretofore, exercise every precaution, in carrying forward these new tactics, to avoid any serious clash with Dr. Saavedra Lamas. But I trust the Department will agree with me that it is impossible to permit things to continue as they were going, and that it is imperative that action be obtained.

Respectfully yours,

SPRUILLE BRADEN

[Enclosure 1]

Statement by the American Delegate (Braden)

Buenos Aires, July 30, 1937.

1. The United States Delegation is gravely concerned by the little progress made this year in the Peace Conference and by its present status.

2. At the end of 1936, aside from some minor matters, there remained three important problems to be settled: (a) renewal of diplomatic relations, (b) regulation of transit, control and policing, and (c) the fundamental question of territory and boundaries. Seven months of this year have gone by, the diplomatic relations are not effective, the regulations are not in force, and there has been almost no discussion of territory and boundaries, so that matters stand practically as they did last December.

3. After the regulations were approved in the latter part of April, it was repeatedly declared in the sessions of this Conference by several delegates including myself, that we were then resolved to enter the fundamental question with energy, dedication and determination, at the same time giving sufficient publicity to our activities so that the world would know of our endeavors. At that time there was unanimity of opinion that the periods of two and three months for direct negotiations and drafting of the arbitral compromise respectively, be adopted for the internal order of the Conference. Three months have passed and, despite the fact that nearly two months ago, in our June 8th resolution, we formally declared, in a published resolution, that the period for direct negotiations was inaugurated, actually nothing has been done.

4. Ambassador Barreda Laos, on December 28th (Act 108), proposed, was seconded by me, and it was unanimously agreed, that we should meet daily in order, in particular, to forward the territory-boundary negotiations. Again, on May 7th (Act 133), I had the honor to refer to my distinguished Peruvian colleague's resolution and

urge that it be carried out. In deference to the wishes of some of those present, it was decided that instead of meeting daily, we should meet on Mondays, Wednesdays and Fridays of each week. This we have not done by any manner of means. How can we expect the parties to respect our resolutions and acts if we, ourselves, do not live up to them?

5. I want to emphasize again the unanimous opinion which has been stated time and again in this Conference, that the Peace Conference must wind up its work in Buenos Aires, before the Government of President Justo goes out of office and our distinguished President's present term of office is over. I fully appreciate, however, that some of the delegates and, in particular, our distinguished President, have many other obligations and responsibilities, which may impede their attending every session, but I am sure that we can always count upon the attendance of the other Argentine delegates and, in the case of any very important action or resolution, we should, of course, whenever possible, defer its passage until the absent delegates have had an opportunity to express their opinions so that our resolution may, as always, be unanimous.

6. It is the opinion of this delegation, expressed many times heretofore, that the only manner in which we may hope successfully to arrive at a territory-boundary agreement, will be by following a procedure similar to that adopted by the prisoners' committee, whose success was crowned by the signing of the January 21st, 1936 Protocol¹⁵—that is, by meeting morning and afternoon and, if necessary, at night, in what were practically all-day sessions every day. This delegation will have the honor, within the near future I hope, to propose the formal adoption of such a procedure but, in the meantime, it urges that the Conference rigidly adhere to the resolution of May 7th, now in force, and that hereafter no scheduled sessions be cancelled.

[Enclosure 2]

Statement by the American Delegate (Braden)

Buenos Aires, August 2, 1937.

The situation described in the special report dated July 28 received from the Military Observers and Major Weeks' letter of July 27, which I have just roughly translated, can be directly traced to the regulations not being in force.

While I stated, at our last session, that in my opinion the strictly correct procedure for the Conference to pursue with respect to the regulations, would be to put them in effect and then listen to and decide

¹⁵ *Foreign Relations*, 1936, vol. v, p. 36.

upon any protests which might be made by either of the parties, I do not, at this meeting, propose such action but may do so soon.

During the last several months, many of the mediatory delegates, including myself, often have expressed their grave concern respecting troop movements in the Chaco and the purchase of arms and munitions by the ex-belligerents. Repeatedly, I have stated my preoccupation that, under present conditions, Bolivian and Paraguayan troop units might come in contact along the intermediary line, thus making it possible, if not probable, that some incident would occur leading to a renewal of hostilities. It is well-nigh impossible to apportion responsibility in such cases, but that such incidents can generate a major conflict is proven by the last war.

Hence, in view of the deeply disturbing news received today, I am compelled to advise the Conference that unless all troops are removed from the area within the lines of withdrawal, I shall, in duty bound, have to recommend to my government that it discontinue its moral guarantee given in the January 21 Protocolized Act.

I submit that there is no reason why Chapter II of the regulations should not immediately be put in effect. In order that this may be done, I move that Captain Vacca and, if possible, Colonel Trabal be despatched to the Chaco, not later than the 4th instant, by airplane, with instructions that, together with the Military Observers in Villa Montes, they put Chapter II of the regulations in force. Furthermore, I request that this airplane be employed by the aforesaid officers, to fly over all of the zone comprehended between the lines of withdrawal, in order to check and make certain that all troops actually have been removed from that area.

My motion is before the Conference.

724.34119/960 : Telegram

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

BUENOS AIRES, August 10, 1937—3 p. m.

[Received 7:20 p. m.]

127. From Braden. My despatch No. 474, August 4 and letters to Welles July 29 and August 5.¹⁶ Things have taken a decided turn for the better so that I now hope for progress despite idiosyncrasies of Saavedra Lamas and Ramírez. I am discontinuing the tactics described in communications under reference until they again appear to be necessary since together with results obtained from *El Mundo* article they have had the desired effect:

Saavedra Lamas admits Justo has demanded solution of Chaco question during present administration. If possible final treaty to

¹⁶ Letters not found in Department files.

be formally concluded in November or December when Argentine and Brazilian Presidents meet to inaugurate international bridge at Uruguayana. The Foreign Minister for the first time in many months declares his firm belief that the final treaty can be reached by direct negotiations within the Conference. The idea of passing the problem to the World Court has been sidetracked at least temporarily.

2. Paraguayan delegation under instructions from their Government have formally begun detailed exposition of their boundary pretensions as first step in the direct fundamental negotiations.

3. Argentine Minister for Foreign Affairs yesterday in private interview requested my Brazilian colleague to obtain my cooperation in pressing direct negotiations. Rodriguez Alves assured him of my complete collaboration and I shall take the first opportunity to do so myself.

4. Weeks telegraphed me yesterday troops withdrawn and everything tranquil. [Braden.]

WEDDELL

724.34119/1046 : Telegram

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

WASHINGTON, October 6, 1937—7 p. m.

93. For Braden. Please cable your comment on a report received here to the effect that the Paraguayan Government is planning to make a move in the immediate future at the Chaco Conference to annul the security regulations, the Protocol of June 9 and the statement issued by the Conference on September 16.¹⁷ According to this report, the proposed action would be made upon the ground that the members of the military establishment of Paraguay in the so-called neutral zone were determined by the action of the Conference as being civilians and divorced from the control of the military authorities and that consequently this created a situation not anticipated nor foreseen by the Paraguayan Government when the original security regulations were under discussion.

HULL

724.34119/1053 : Telegram

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

BUENOS AIRES, October 7, 1937—5 p. m.

[Received 6:15 p. m.]

193. From Braden. Your 93, October 6, 7 p. m. No authoritative information available here as to the attitude which will be assumed

¹⁷ For text of the Conference resolution of September 16, see *The Chaco Peace Conference*, p. 121.

by new Paraguayan delegation due to arrive here October 10. In that connection see my despatch 512 of September 29.¹⁸ However, my colleagues and I are of the opinion that Paraguayans will not accept the regulations; what reasons will be adduced remains to be seen. If the regulations adopted April 23 are not accepted the Paraguayan delegation may cooperate in drafting new ones. Should they not do so I feel the Conference should by appropriate resolution place the onus on Paraguay for the failure to arrive at security regulations, with corollary responsibility for any unfortunate consequence their absence might entail in the Chaco; the Conference thereupon demanding active continuation of negotiations on the fundamental question.

The Bolivian delegate prior to his departure for La Paz agreed with my Brazilian colleague and me that providing active negotiations on the fundamental question were actually under way his country would if necessary abandon transit over the road thus removing that sore point from our deliberations. [Braden.]

WEDDELL

724.34119/1083

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

[WASHINGTON,] October 19, 1937.

The Minister of Bolivia called this morning and read to me two communications which he had received from his Government. The communications which he was instructed to convey to me stated that the Government of Bolivia was greatly disturbed by the situation within the Chaco Conference; that it felt that, partly because of the constant political changes in Paraguay and partly because of the ineptitude of the President of the Conference, Dr. Saavedra Lamas, the Conference was headed for an imminent breakdown, and that if such a breakdown took place, Paraguay would immediately recommence military activities against Bolivia. The Minister was instructed to request the Government of the United States to take part in the creation of a bloc within the Chaco Conference, to be composed of the delegates of the United States, Chile, Brazil and Peru, for the purpose of working together as a unit and bringing pressure to bear upon the other members of the Conference so that a more speedy and satisfactory procedure would be resorted to.

In response to this request, I said that, as the Minister himself knew, the American delegate was on the closest and most cooperative terms with the Chilean, Brazilian, and Peruvian delegates and that he

¹⁸ Not printed.

was working most harmoniously with them. At the same time, however, I said the United States delegate was working in perfect harmony with the Uruguayan delegate and was endeavoring to the best of his ability to work in similar harmony with the President of the Conference. I said that it seemed to me that the creation of any such bloc as this within the Conference would immediately create suspicion and friction which would result in a situation entirely unfavorable towards the speedy attainment of the objectives desired. I added that if any such move as this were undertaken, it would hardly remain unknown to the President of the Conference, with the great likelihood that when some impasse was reached the President of the Conference would throw all the blame for this situation upon the nations taking part in the creation of such a bloc with results that might well be fatal to the Conference as a whole. The Minister said that he entirely agreed with me and that he would advise his Government to that effect.

The Minister then went on to say that he was advised by his Government that some confidential formula had been worked out by some of the delegations to the Conference providing for the solution of the fundamental question when this is taken up by the Conference. The Minister said that his Government believed that this confidential formula failed to provide for Bolivia any outlet to the Paraguay River and that if this were the case, such a formula would be completely unacceptable to Bolivia. I told the Minister that I was unaware of any such formula and that I could not conceive that our delegate had participated in such conversations without advising the Department of State.

I further said to the Minister that it was my understanding that the Conference was now beginning to work more actively due to the arrival of the new Paraguayan delegates and to the return of Dr. Alvístegui from Bolivia. I said that I could only hope that satisfactory progress could be made.

S[UMNER] W[ELLES]

724.34119/1067

The Secretary of State to the Minister in Bolivia (Caldwell)

No. 17

WASHINGTON, OCTOBER 20, 1937.

SIR: The Department has received your confidential despatch no. 40, dated October 5, 1937,¹⁹ reporting upon your conversation with the Bolivian Minister for Foreign Affairs during which the latter raised the point of a possible meeting of the Presidents of Argentina, Brazil,

¹⁹ Not printed.

Bolivia and Paraguay for the purpose of discussing a possible settlement of the Chaco controversy.

The Department approves, in general, of the statements you made to the Bolivian Minister for Foreign Affairs, as set forth in the penultimate paragraph of your despatch. However, you are requested, in such manner as you deem appropriate, to express orally to Dr. Vaca Chávez the following additional views of your Government.

In your conversation with the Bolivian Minister for Foreign Affairs you may state that your Government concurs, in general, with the views that you expressed during the previous conversation. You will add, however, that the Government of the United States is of the opinion that the efforts being made by the Conference to bring about a solution of the controversy should not be relaxed in any manner pending the possible meeting of the four presidents; but that on the contrary, there should be a special effort to make further progress toward a solution. This Government, of course, would heartily welcome any contribution toward a final settlement that might be made as a result of the proposed conference of the four presidents. It appears probable that the conference organization might well be utilized in carrying out any plan that the four presidents might be able to agree upon. It would be valuable, therefore, to have the Conference continue its work and to be in a position to take advantage of any favorable developments that arise outside of the Conference.

A copy of this instruction is being transmitted to the missions at Buenos Aires and Rio de Janeiro, and to Ambassador Braden.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

724.34119/1080 : Telegram

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

BUENOS AIRES, October 23, 1937—noon.

[Received 12:42 p. m.]

199. From Braden. Paraguayan delegation has rejected regulations by note contending in detail that several provisions are not in accord with protocols and therefore require congressional ratification. The last paragraph, however, indicates willingness to consider measures to implement non-aggression pact so as to preserve quiet in the Chaco during remaining negotiations. At my request chairman of the Paraguayan delegation agreed to propose formula to accomplish this end. I expect him to do so shortly. [Braden.]

WEDDELL

724.34119/1080 : Telegram

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

WASHINGTON, October 26, 1937—2 p. m.

98. For Braden from the Under Secretary. Your 199, October 23 noon. The Paraguayan note which you refer to appears to me gravely disquieting in view of the conditions which it may engender. I suggest for your consideration the possibility of divorcing the consideration by the Conference of the allegations of Paraguay that the regulations are not in accord with the protocols and the suggestions for implementation of the non-aggression pact which the Chairman of the Paraguayan delegation has agreed to propose. On the first point I would assume that the Conference must adopt the position that the regulations are in accord with the protocol and that this subject can be discussed in a conciliatory fashion with the Paraguayan delegation.

With regard to the second point, that is the implementation of the non-aggression pact, it would seem to be becoming more than evident that direct negotiations cannot be successfully undertaken at least for a considerable time to come, that is until the political situation in Paraguay and in Bolivia has become far more stable than it now is. If my judgment on this point is correct, the only other course left would appear to be resort to the Hague court. Should resort be had to that procedure, a considerable time will undoubtedly elapse until the court has passed upon the case and until the two parties to the controversy have accepted the award. During that period the value of a well implemented non-aggression pact between Paraguay and Bolivia, negotiated with the moral support of the powers composing the Chaco Conference, will be very great inasmuch as it would presumably quiet tension between Bolivia and Paraguay and prevent the fear of a renewed attack on one side or the other.

I shall be glad to have you telegraph me what your views may be with regard to the points above mentioned.

HULL

724.34119/1088 : Telegram

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

BUENOS AIRES, October 28, 1937—9 a. m.

[Received 11:25 a. m.]

205. From Braden for the Under Secretary. Your 98, October 26, 2 p. m. I agree entirely with your first paragraph which is pre-

cisely procedure I have urged Conference to adopt. As a result of my motion and alarmed by the Paraguayan note the Argentine Minister for Foreign Affairs appointed Ruíz Moreno the Brazilian delegate, the Peruvian Ambassador and myself as a committee to obtain from the Paraguayan delegation chairman a satisfactory project implementing the non-aggression pact. The latter has promised us to present today his proposition as approved by his Government. The committee warned him (*a*) as per last sentence of first paragraph my telegram No. 193, October 7, 5 p. m., and (*b*) that conditions soon would be further aggravated since in view of the non-existence of regulations the Peruvian Ambassador had stopped his military observer from going to the Chaco on October 15 as scheduled and Brazil probably would do likewise November 15 thus leaving the area between the opposing armies without neutral observers. The Argentine and Brazilian members of committee added that this practically implied the withdrawal by the mediatory Governments of their moral guarantee.

With regard to the second point it may well be that even assuming optimum cooperation from S. Lamas unstable political conditions especially in Paraguay will make direct agreement impossible for some time to come, nevertheless as indicated in my despatch No. 540 air mailed October 22 [21] ²⁰ I am convinced not yet that a Chaco settlement cannot be obtained by direct negotiations. A satisfactory implementation of the non-aggression pact appears the first step in opening the way, to be followed by active negotiations here, the delegate's trips to Bolivia and Paraguay and finally the united pressure of all six mediatory Foreign Offices. Moreover except for two short and abortive attempts during October '35 and December '36 there has been no discussion of the boundary question within the Conference for which omission the chairman is largely to blame. Therefore, the Conference cannot conscientiously declare direct agreement impossible until a real effort has been made to find a solution.

Protocol provides [*provision?*] that Conference cannot close until arbitral compromise has been concerted, might impede The Hague Court taking jurisdiction and certainly would bring strong Paraguayan objections if we attempted to submit the question without the compromise. But even granting jurisdiction were accepted and award made by the Court, Paraguay would not accept the ruling, Bolivia would try to enforce it, and Paraguayan resistance would probably lead to a renewal of war.

Even if we obtain from Paraguay an implementation of the non-aggression pact satisfactory to Bolivia the latter probably will not agree to have it continue beyond the end of the Conference unless

²⁰ Not printed.

assurances were given by Paraguay that the case would go to arbitration and the award [be] accepted since Bolivia fears that under the protection of a non-aggression pact supported by the mediatory powers Paraguay will endeavor to maintain indefinitely the *status quo* of military occupation. [Braden.]

WEDDELL

724.34119/1089 : Telegram

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

BUENOS AIRES, October 28, 1937—11 a. m.

[Received 12:21 p. m.]

206. From Braden for the Under Secretary of State. Add the following to my 205, October 28, 9 a. m. In my opinion a final intensive drive to settle the fundamental question should be made and to this end the situation should be presented to the other mediatory Foreign Offices, their opinions requested and a concrete program of the complete unity of action laid down for the Conference. By reason of its location to and detachment from conflicting problems the Department of State logically should make this *démarche*. As soon as we have determined just what security *modus vivendi* may be obtained in the Chaco I shall transmit my specific recommendations in this particular. [Braden.]

WEDDELL

724.34119/1096

The Minister in Bolivia (Caldwell) to the Secretary of State

No. 56

LA PAZ, October 29, 1937.

[Received November 5.]

SIR: Referring to the Department's confidential instruction No. 17 of October 20, 1937, as to a proposed conference between the Presidents of Argentina, Brazil, Bolivia and Paraguay, I have the honor to report that in accordance with that instruction I had a conference yesterday afternoon with Dr. Fabián Vaca Chávez, Minister for Foreign Affairs, in which I presented to the Minister orally the additional views of the Department as set forth in the penultimate paragraph of the Department's instruction under review.

In reply, Dr. Vaca Chávez expressed special gratification to learn that the efforts being made by the Conference to bring about a solution of the controversy would not be relaxed on account of any supplementary efforts which might be made in the same direction in the meantime. He added that Dr. Alvéstegui had been specifically

instructed to further the work of the Conference in every possible way. While he had not been instructed to propose specific solutions, he had been authorized to accept certain possible solutions in case these were proposed to him by the Conference.

Dr. Vaca Chávez went on to say that he felt very strongly that no step, however hopeful, should be taken to weaken the prestige or the influence of the Conference itself, and he assured me of the desire of the Bolivian Government to make use of the machinery of the Conference in carrying out any plan which might possibly be agreed upon in the proposed conference between the four Presidents. From the tone of his remarks I gathered that the whole plan was intended to be supplementary and that arrangements for the proposed meeting were still tentative and uncertain.

Dr. Vaca Chávez then went on to tell me that the suggestion in question had come originally from Dr. Saavedra Lamas, who had mentioned the matter first to Dr. Rodriguez Alves and later to Dr. Alvéstegui, who had made a confidential report on the subject during his recent visit to La Paz.

As to possible concrete solutions, which might perhaps be offered if a suitable opportunity arose, Dr. Vaca Chávez went on to say that he had been informed that Dr. Saavedra Lamas had sent Colonel Schweitzer as his personal emissary to Asunción to sound out opinion in Paraguay as to a reasonable territorial solution in return for a cash payment on the part of Bolivia to Paraguay. At the same time Captain Mauriño had come to La Paz on a similar mission. Dr. Vaca Chávez said that Captain Mauriño had reported that he had not found positive evidence as to the probable attitude of Bolivian opinion on this question.

As a possible alternative, Dr. Vaca Chávez added confidentially that the Bolivian Government was also considering another possible solution, involving the extension of the railroad from Puerto Casado to the southern oil fields, with an agreement on the part of Bolivia to export oil to Paraguay by this route in return for a definite territorial settlement and the use of Puerto Casado as a free port on the part of Bolivia, this suggestion being kept for the moment in strict reserve to be used only if other suggested solutions proved to be impracticable. All this Dr. Vaca Chávez told me as an indication of the desire of Bolivia to seek in every possible way a prompt and equitable solution under the terms of the peace protocol of June, 1935, and through the machinery set up at that time.

In this connection, however, the Brazilian Legation has received information which it believes to be reliable that, on his arrival in La Paz, Captain Mauriño went to President Busch and to two high officers of the Army (Peñaranda and Calleja) with a personal message

from Dr. Saavedra Lamas, suggesting a direct arrangement between Paraguay, Bolivia and the Argentine as the only practicable solution of the Chaco problem.

Respectfully yours,

ROBERT G. CALDWELL

724.34119/1089 : Telegram

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

WASHINGTON, November 4, 1937—7 p. m.

102. For Braden from the Under Secretary. Your 205, October 28, 9 a. m., and 206, October 28, 11 a. m. The exchange of views effected in my telegram 98, October 26, 2 p. m., and your telegrams under reference make it appear desirable for our delegation to support conference action along the following lines:

(1) It appears that the Paraguayan delegation should be tactfully informed, in reply to the note mentioned in your 199, October 23, noon, that the Conference cannot decide otherwise than that, under the protocols, the establishment and maintenance of a security system in the Chaco is an exclusive function of the Conference until a final peace settlement is achieved. Reference to the signature of the January 9 bases²¹ by the Paraguayan Foreign Minister and the Paraguayan delegate, and to the Paraguayan delegate's note of May 18,²² should be helpful in this respect.

(2) At the same time that the foregoing is brought to the attention of the Paraguayan delegation, the Conference should express, in a conciliatory manner, its willingness to discuss with the Paraguayan or Bolivian delegations any clarification of the existing security regulations that may be considered necessary by either of the two parties.

(3) The mediatory powers might well be urged to continue to send their military observers to the Chaco, at least during the time that a further effort is being made to adjust the matter of the security regulations. While failure to keep observers in the Chaco might imply a withdrawal by the mediatory powers of their moral guarantee, as stated by the Argentine and Brazilian delegates, it also might be interpreted as meaning that the Conference has given in to Paraguay as concerns jurisdiction over security measures. In the event that Paraguay makes it impossible for the military observers to carry out their instructions from the Conference, consideration then might be given to making public a conference resolution which would provide for the withdrawal of the observers and which would set forth the reasons for such action. The Paraguayan delegation might be informally apprised of this contemplated procedure.

(4) It seems highly desirable that the Conference should press the negotiation of a well implemented non-aggression pact concurrently with its work on the fundamental issue. The negotiation of such a

²¹ See *The Chaco Peace Conference*, pp. 23, 106, 108.

²² *Ibid.*, p. 120.

pact, however, should be entirely divorced from a consideration of the present security regulations; and it should be made clear that a rapid adjustment respecting the regulations, on the basis of conference jurisdiction, is the most important immediate problem.

In your opinion, is the Brazilian statement of October 8, reported in your despatch 539,²³ in accord with the procedure outlined in paragraph (4)? There is some indication that the Brazilian plan would be to drop the question of the existing regulations in the event that Paraguay refuses to accept the regulations as they are. The Brazilian delegate went on to say that should Paraguay refuse, the Conference would be faced by the necessity of rapidly establishing a *modus vivendi* guaranteeing security in the Chaco and acceptable to Bolivia. If the *modus vivendi* referred to would represent merely a modification of the existing regulations and would be based upon conference jurisdiction in the matter, then the views of Brazil and the United States are approximately the same.

I am considering the views expressed in the second and third paragraphs of your telegram 205; and I have noted that the comment about General Estigarribia, set forth in paragraph 8 of your despatch 541,²⁴ indicates the possibility that his moderate views may yet prove of assistance in reaching a direct settlement of the Chaco controversy. However, I wish to give further study to the alternate courses of continued effort for direct settlement or resort to The Hague court before reaching a definite decision in the matter.

You may, in your discretion, discuss paragraphs (1) to (4) of this telegram with the mediatory delegates, with a view to bringing about unity of action by the Conference.

WELLES

724.34119/1103 : Telegram

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

BUENOS AIRES, November 6, 1937—3 p. m.

[Received 3 : 52 p. m.]

212. From Braden for the Under Secretary. On October 29 the Brazilian delegate received telegram from his Foreign Office quoting report from Brazilian Minister at La Paz that the Argentine Military Attaché there had declared to President Busch, Chief of Staff, and other prominent officers he was authorized to give them to understand that Saavedra Lamas being convinced the final treaty could not be

²³ Dated October 20; not printed.

²⁴ Dated October 21; not printed.

reached by the Peace Conference suggested doing away with it thus leaving negotiations to Argentina as sole mediator.

Brazilian delegate was further informed yesterday the source was Bolivian Minister in Brazil now in La Paz, confirmed by Under Secretary for Foreign Affairs. I have requested confirmation from Caldwell.

The Argentine Military Attaché may have exceeded his instructions but under any circumstances the incident is serious if confirmed. As soon as we are satisfied of the facts my Brazilian colleague and I will consult as to what action we can recommend. [Braden.]

WEDDELL

724.34119/1104 : Telegram

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

BUENOS AIRES, November 6, 1937—4 p. m.

[Received 8:20 p. m.]

213. From Braden. Department's telegram No. 102, November 4, 7 p. m. Paraguayan project which was delayed by illness of Paraguayan Minister for Foreign Affairs and attempted revolution²⁵ delivered to Committee today. It does not cover transit but otherwise through generalities attempts to accomplish the same ends as the regulations of April 23. Committee discussions thereof will begin tomorrow with ex-belligerent delegations.

Paraguayan delegation has already been informed as per paragraphs 1 and 2 of telegram under reference.

Brazilian October 8th statement is in accord with paragraph 4 of telegram under reference excepting that it contemplates only present security regulations or in lieu thereof a *modus vivendi* which will protect the situation in the Chaco until the termination of the Conference but it does not suggest or contemplate a permanent well implemented non-aggression pact.

I expect that during Committee discussions during the next few days we will arrive at a concrete plan as to exactly what may be accomplished in the way of present security measures in the Chaco.

The considerations advanced in my despatch 546,²⁶ in my opinion, make it preferable that the stand outlined in your telegram under reference be made a part of the suggested *démarche* by the Department incorporating it as point 3 of my outline. I have reason to believe that Foreign Offices of Chile, Brazil and Peru agree substantially with the Department's views. Uruguay is an unknown quantity and

²⁵ For correspondence concerning the revolution in Paraguay, see pp. 717 ff.

²⁶ Dated October 28; not printed.

is not to be relied on. But chances of getting the chairman committed to a definite course of action will be greater following the Department's *démarche* than if I were to present the program in Conference. [Braden.]

WEDDELL

724.34119/1117

The American Delegate (Braden) to the Secretary of State

No. 558

BUENOS AIRES, November 10, 1937.

[Received November 19.]

SIR: I have the honor to enclose in Spanish and in English translation the text of a possible *modus vivendi*²⁷ in substitution for the security regulations of April 23, 1937, at least until such time as those regulations are approved by a Paraguayan Congress.

The enclosed text has been arrived at through discussion between the Paraguayan delegation and the committee chairmanned by Dr. Ruiz Moreno, second Argentine delegate. The Paraguayan delegation is referring Article 2 and Article 6 to their government for approval. The project has not yet been discussed with the Bolivian delegation.

I am not commenting at this time but merely transmitting the text in order possibly to save cable costs later.

Respectfully yours,

SPRUILLE BRADEN

724.34119/1128a : Telegram

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

WASHINGTON, November 30, 1937—7 p. m.

114. For Braden from the Under Secretary. The Bolivian Minister called upon me today by instruction of his Government to inform me that the Bolivian Government had been giving consideration to the *modus vivendi* proposed and had found it unacceptable inasmuch as it contained material departures from the bases of the January regulations. I expressed to the Minister my hope that the Bolivian Government in its reply to the Conference would not tender a flat rejection of the *modus vivendi* but would give every possible consideration to the possibility of making such counter proposals as it deemed necessary within the framework of the *modus vivendi* as formulated. The Minister stated he would advise his Government accordingly.

Please cable the Department any representations in this regard which may have already been made to you or to the Conference by the Bolivian delegation.

HULL

²⁷ See *The Chaco Peace Conference*, p. 123.

724.34119/1129 : Telegram

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

BUENOS AIRES, December 1, 1937—8 p. m.

[Received 8:16 p. m.]

235. From Braden. Your 114, November 30, 7 p. m. No reply to the Conference has been made yet by Bolivia but the delegate rather favors rejecting *modus vivendi* hoping thus to emphasize Paraguayan insubordination to protocols as these are interpreted by the Conference in contrast with Bolivian orthodoxy. The Brazilian delegate and I have repeatedly pointed out that the *modus vivendi* is not equivalent to the bases and regulations but is a means of achieving minimum security required in the Chaco for the life of the Conference. Strongly recommending acceptance we have contended that Bolivia's juridicial position will be protected by the projected Conference reply to the Paraguayan October 20 note and she could further clarify it in a note addressed to the Conference; Bolivian position would also be strengthened by being conciliatory once again. [Braden.]

WEDDELL

724.34119/1145

The American Delegate (Braden) to the Secretary of State

No. 575

BUENOS AIRES, December 2, 1937.

[Received December 14.]

SIR: I have the honor to refer to my telegram No. 212 of November 6, 3 p. m. concerning statements attributed to Major Mauriño, Argentine Military Attaché in La Paz, to the effect that Dr. Saavedra Lamas desired the elimination of the other mediatory nations so that Argentina could act alone. The Bolivian delegate yesterday advised Ambassador Rodrigues Alves and me that he had received a telegram from his government confirming the Mauriño story.

In that connection, on the evening of November 25, Sr. Carcano, Argentine Ambassador in Rio de Janeiro, confidentially advised the Brazilian delegate, Ambassador Rodrigues Alves, that he had warned the Argentine Minister for Foreign Affairs that Argentine policy on the destroyer incident²⁸ and the Chaco would, if continued, alienate Brazil and cause that country's withdrawal from the Peace Conference. The Argentine Minister for Foreign Affairs replied that he did not mind in the slightest degree if Brazil and all the other mediatory powers withdrew but would indeed welcome it, since he had agreed with the Paraguayans that negotiations might be pursued with Ar-

²⁸ See despatch No. 1710, August 20, 1937, from the Ambassador in Argentina, p. 246.

gentina as the sole mediator. I believe allowance should be made for Ambassador Cárcano's strong antipathy for Dr. Saavedra Lamas; Dr. Zubizarreta and his colleagues have shown no such disposition as attributed to them by the Conference president.

I am reliably informed that Major Tauber, Argentine Military Attaché in Asunción made a hurried and secret trip into the Chaco a couple of weeks ago and thereafter immediately came to Buenos Aires. One naturally wonders if his mission was not similar to that of his fellow officer in La Paz.

Dr. Zubizarreta, Paraguayan delegate, advised me confidentially on November 27 that he had been summoned a few days before by the Argentine Minister for Foreign Affairs to a meeting with Major Mauriño who, among other indiscretions, said that Bolivia, being anxious for a final treaty, was willing to pay a large sum of money to Paraguay and no longer desired a sovereign port. Dr. Saavedra Lamas injected the remark—"No paltry sum but many millions". While I believe the Bolivian government will be willing, in the final showdown, to put up money and forego a sovereign port if it obtains an otherwise satisfactory agreement, to pass this information on to the Paraguayans at this time can only make our negotiations with them more difficult. Major Mauriño, supported by the Argentine Minister for Foreign Affairs, also told the Paraguayan delegate that they could obtain a frontier, for at least a short distance, along the Parapiti river. The Bolivians have always declared they preferred war to making such a concession.

The Argentine Minister for Foreign Affairs naturally tried to keep secret the Mauriño mission. When he found he could not do so, and that his personal efforts to settle the Chaco singlehanded were not as successful as he had hoped, he produced Major Mauriño at the Conference session of November 26, that the other delegates might be enlightened by him on his mission in Bolivia. Among other statements, Major Mauriño said that the Bolivian government would be willing to put up between 10,000,000 and 15,000,000 pesos, Argentine currency. The maximum sum ever discussed previously had been £200,000 or approximately 3,350,000 Argentine pesos.

The importance of this affair lies in the fact that there is confirmation that Major Mauriño, under orders from Dr. Saavedra Lamas, did interview high Bolivian officials with a proposal to torpedo the Conference. He was unsuccessful since the Bolivian officials replied their country preferred the Conference. It is the role of Charity to suppose that Major Mauriño exceeded his instructions. On the other hand the Argentine Minister for Foreign Affairs' statement to his Ambassador in Rio de Janeiro that the Paraguayans were agreeable to his idea of Argentina proceeding alone in the mediation was written only

a short time before Major Mauriño was sent to La Paz and therefore strong presumption exists that he acted under orders.

I have thoroughly discussed this matter with Ambassador Rodrigues Alves and we are of opinion that nothing can be done by us in the premises without seriously endangering the Conference. It appears best to leave that Mauriño incident where it is and to ignore this last intrigue by Dr. Saavedra Lamas as we have others.

Respectfully yours,

SPRUILL BRADEN

724.34119/1144

The American Delegate (Braden) to the Secretary of State

No. 574

BUENOS AIRES, December 3, 1937.

[Received December 14.]

SIR: I have the honor to report that in an all day meeting yesterday, the Brazilian and Peruvian delegates and I submitted general preliminary bases for a final peace treaty to Dr. Zubizarreta and Dr. Cardozo, Paraguayan delegates, and obtained their promise to make us informally a counter proposal which, while undoubtedly presenting their maximum aspirations, nevertheless will follow the broad lines laid down by us and which, from conversations with the Bolivian delegate, we have reason to believe may constitute the initial formula on which to build the peace. We explained to the Paraguayan delegates that we had not consulted the Bolivians, and in fact we knew our suggestions would meet resistance and initial refusal from Dr. Alvéstegui but if the Paraguayans accepted them we would undertake to open negotiations with him on the following bases:

1. No sovereign port for Bolivia but a limited free port (*puerto franco*) in the vicinity of Puerto Casado with adequate wharves, warehouses, railroad terminus, etc. to be installed by Paraguay for Bolivian use.

2. A frontier to the east of that described in paragraph 6 (a) of my despatch No. 482 of August 31, 1937.²⁹

3. Bolivia to pay Paraguay a sum of money which will be invested by the latter in the construction of the Paraguayan section of a railroad from the Puerto Casado district to the Camiri region. Bolivia to construct the remainder.

4. Mutual renunciation of war responsibilities.

5. A well implemented non-aggression pact.

With respect to these bases the following comments may be made:

1. Bolivia still insists officially that a sovereign port on the Paraguay river is a *sine qua non* to any final agreement. The Bolivian

²⁹ Not printed. Paragraph 6 (a) read: "A permanent frontier starting from some point on the Pilcomayo River between D'Orbigny and Ballivian, running north to approximately Lat. 20° south then eastward to the inner Bay of Bahía Negra;" (724.34119/1007)

delegate has, however, confidentially advised my Brazilian colleague and myself that his government will accept a free port providing the other terms of the treaty are satisfactory. It is evident that Bolivia desires a free port in the full sense of the word without any restrictions and including the installation of their own customs. Paraguay, on the other hand, wishes free port facilities to be limited, so that while there would be no Paraguayan taxes or duties imposed upon the transit of people and material through the port, there would not be a Bolivian customs office and Paraguay would retain a certain degree of supervision in the free port area. This is essentially a detail to be worked out in negotiations.

2. The Paraguayans will unquestionably at first insist upon a frontier lying along the intermediary line and that any withdrawal to the east or south of that line should be compensated for by an approximately equal area to the north or west. On this point we will encounter our greatest difficulties. However, yesterday we proposed the following line to the Paraguayans: Starting at the intersection of longitude 61° with the Pilcomayo river, north through Fortín Esteros, northwest to Cañada Tarija, northeast to Ingavi and east to the intersection of latitude $20^{\circ}-0'-35''$ with the river Otuquis. As was to be expected, the Paraguayans were shocked at the suggestion of such a boundary. Dr. Zubizarreta intimated that we should at least propose a line approximating that mentioned in paragraph 6 (a) of my despatch No. 482.

3. The Bolivian delegate has indicated to Ambassador Rodrigues Alves and me that his country, providing other conditions are satisfactory, would be willing to construct a railroad from the Camiri area to Puerto Casado and even to contemplate some participation by Paraguay in the oil industry of southeastern Bolivia. Yesterday Dr. Zubizarreta held that the portion of the railroad within Paraguayan territory should be constructed and owned by the Paraguayan government and that, to this end, Bolivia should pay to Paraguay the requisite amount of money, leaving to the latter to decide when railroad construction should begin. It is interesting, in this connection, that whenever the building of a railroad in the Chaco has been mentioned, Dr. Saavedra Lamas has endeavored to have the route to run from Puerto Casado to Yacuiba, thus effectually furnishing Argentina with a strategic line in the Chaco.

Incidentally, a railroad from Camiri to Puerto Casado might substantially reduce the value of the proposed Argentine railroad from Yacuiba to Santa Cruz and it would probably greatly lessen, if not eliminate, Argentina's interest in Bolivian oil, excepting for that in the Bermejo region, and thus might indirectly make Bolivia more disposed towards some mutually satisfactory settlement with the Standard Oil Company.

4 and 5. I doubt that there will be any difficulty encountered on these points, providing an agreement can be reached upon the first three.

The foregoing plan is, of course, vague and preliminary, but at least seems to offer an opportunity to bring the ex-belligerent nations together on the fundamental elements for discussion and to afford satisfactory starting points for the territorial-boundary deliberations.

In fact, I would feel quite optimistic respecting these negotiations were it not for Dr. Saavedra Lamas' ignorance of the Chaco problem, his gross indiscretions and intrigues, plus the fact that he categorically refuses to permit the formation of any Conference committee or to allow any meetings whatsoever of delegates without his presence, even though one of the other Argentine representatives attend. In other words, he makes it impossible for us to adopt an intensive, intelligent procedure such as was followed successfully by the Prisoners Committee and which both the ex-belligerent delegates agree is the only satisfactory way to work. Until he is out of the way our only course seems to be to make such progress as we can through "prohibited" meetings analogous to the one held yesterday, despite the deliberate obstruction of the Conference president.

Respectfully yours,

SPRUILLE BRADEN

724.34119/1136

The American Delegate (Braden) to the Secretary of State

No. 577

BUENOS AIRES, December 3, 1937.

[Received December 14.]

SIR: I have the honor to transmit a memorandum which at his request I prepared for Dr. Alvéstegui, Bolivian delegate, on the proposed security *modus vivendi* in the Chaco. He informs me that he has transmitted it to his government, together with other arguments which have been adduced by the mediatory delegates in favor of Bolivia's acceptance of the *modus vivendi*. The Bolivian delegate as yet has received no expression of opinion from his government on this subject.

Respectfully yours,

SPRUILLE BRADEN

[Enclosure—Memorandum]

BUENOS AIRES, November 29, 1937.

At a time when it appears that the fundamental negotiations may be begun with some hope of success, for the Conference to accuse Paraguay of insubordination and to place the responsibility on that country for any incidents which might occur in the Chaco would not be in keeping with the role of a mediator and might prejudice the success of our final negotiations. Therefore, providing Bolivia's juridical position in this security question can be entirely protected and providing that no serious incidents occur in the Chaco, it would be advisable for Bolivia to agree to the *modus vivendi* at least for such time as would indicate whether it was workable or not.

Bolivia's juridical position may be thoroughly protected by

(a) The projected Conference note to Paraguay including such alterations in the last paragraph thereof as may seem desirable;

(b) A separate exchange of notes between the Bolivian delegation and the Conference entirely clarifying the position of all parties concerned. In such an exchange of notes, Bolivia could emphasize her conciliatory spirit in trying, once again, to adjust security matters in contrast with a certain degree of intransigence on the part of Paraguay.

Major Weeks, U. S. Army, is acknowledgedly a competent officer whose opinion is worthy of special consideration by reason of his service for sixteen months in the Chaco, as a member of the Neutral Military Commission and the Special Military Commission, as well as a Conference Observer. He has reported that the essential requirements for the maintenance of a minimum of security and tranquility in the Chaco are:

1. Withdrawal of troops to adequate distances on each side of the intermediary line.

2. Limitation of the number of troops or police permitted to remain within the aforesaid withdrawal area.

3. That any "destacamentos" within that area or concentration of troops in the rear of that area are not to be moved excepting in accord with the Military Observers.

4. That the Military Observers may be empowered to endeavor to adjust any incidents which may arise and in case of necessity should they be unable to do so, the aforesaid incidents to be referred to the Peace Conference.

5. No shooting for any reason whatsoever to be allowed within one to two kilometres on either side of the intermediary line.

It will be noted that the "disposiciones" or *modus vivendi* cover the question of withdrawal of troops by fixing certain concentration points for them. The limitation of number of troops is also provided for in the limited number to be allowed in the "destacamentos".

The third and fourth points similarly are covered in the *modus vivendi* and Dr. Zubizarreta has assured the Conference committee with whom he negotiated that the fifth point could readily be handled by the Military Observers in consultation with the commands in the Chaco.

Therefore, while there is no equivalence between the April 23 Regulations and the *modus vivendi*, and the latter document admittedly does not clearly define matters by laying down "lines of withdrawal", specifying the exact number of police to be allowed within the area, etc., nevertheless the *modus vivendi*, if carried out in the spirit as well as in the letter, will prevent all contact between Bolivian and Paraguayan posts or patrols and accomplish the same ends as the Regulations. There is every incentive for Paraguay to comply with the

spirit as well as the letter of the *modus vivendi* and Dr. Zubizarreta has assured the mediatory delegates that in actual practice the provisions of the April 23 Regulations will be carried out. That is to say, the Military Observers, in consultation with the commands, will locate concentration points behind the lines of withdrawal or separation. "Destacamentos" similarly will be placed at ample distances from one another and will be limited in number to probably less than the 500 police allowed in the Regulations. Furthermore, Dr. Zubizarreta declares that every liberty of transit will be given over the Villa Montes-Boyube road.

Both Bolivia and the Conference repeatedly have emphasized the urgent need for a security system in the Chaco (see Dr. Alvéstegui's note, August 5, 1937⁸⁰); hence, for Bolivia now to leave matters in their present status would indicate that previous insistence on implantation of a security system was unwarranted and would make both Bolivia and the Conference appear as having been unduly alarmist.

In any event, as long as Bolivia's juridical position is fully protected, it is certainly worth while giving the *modus vivendi* a trial, since, if it is found impracticable it can readily be cancelled and the situation returned to the status of October 20 without detriment to the prestige plus the fact that Bolivia, by acceding to the *modus vivendi* on this trial basis, would once again have demonstrated co-operation and an earnest desire for peace which could not do otherwise than strengthen that country's position before the world at large and, in particular before the Hague Court if, as and when the question were ever presented there.

724.34119/1151

The American Delegate (Braden) to the Secretary of State

No. 587

BUENOS AIRES, December 14, 1937.

[Received December 22.]

SIR: I have the honor to inform you that the informal conversations reported in my despatch No. 574 of December 3, 1937 have continued between Ambassador Rodrigues Alves, Brazilian delegate, Ambassador Barreda Laos, Peruvian delegate, and myself on the one hand, and the Paraguayan delegation on the other.

On December 6 Dr. Zubizarreta, senior Paraguayan delegate, made us the following offer:

1) That the permanent frontier should coincide with the intermediary line. 2) That any territory in Paraguay's possession, such as that in the neighborhood of the Villa Montes-Boyube road, which were relinquished should be compensated by an area to the north of

⁸⁰ Not found in Department files.

the intermediary line, in which case they proposed the following frontier: Cururenda (opposite D'Orbigny)—up the middle of the Pilcomayo river to Palo Marcado—north through Carandaiti (leaving Carandaiti in Paraguayan possession) to Santa Fé on the Parapiti river—following the course of this river to its intersection with latitude 19° 10' S.—a straight line to San Juan—south following the course of the Otuquis and Rio Negro rivers until their junction with the Paraguay river. (In the course of this meeting Dr. Zubizarreta read to us his confidential instructions issued by President Ayala in June, 1935 which assert the intermediary line is the minimum acceptable to Paraguay and the maximum line beginning at Yaurá (Brazil)—south to the Pilcomayo—Pilcomayo to D'Orbigny-Juntas del Pilar—headwaters of the Pilcomayo in the Chiriguano mountains—headwaters of the Parapiti—following the Parapiti to the Izozog marshes).

Dr. Rodrigues Alves, Dr. Barreda Laos and I declared the above offer to be totally unacceptable even as a starting point and we insisted that the intermediary line be the maximum of Paraguayan aspirations and a frontier on the Parapiti to be unthinkable. (Bolivia would prefer another war to such a condition). Also we refused to improve upon the Esteros line proposed by us (See paragraph 2, page 3 of my despatch No. 574).

Dr. Zubizarreta said that he had exceeded his instructions by making the offer described in paragraph 2 of this despatch and, to break the deadlock, suggested that Dr. Cardozo, junior Paraguayan delegate, should go to Asunción, discuss the matter with the President of Paraguay and the Minister for Foreign Affairs, and bring back specific and full instructions. By arrangement with the Argentine government, Dr. Cardozo will be allowed to go through the yellow fever quarantine on Paraguayan ports. He leaves for Asunción today.

Dr. Ramírez, former Paraguayan delegate, also returns to Asunción today to present a detailed report of his work here. He claims to have documents signed, or at least initialed, by Dr. Carlos Macedo Soares, former Brazilian Minister for Foreign Affairs, showing that during December, 1936 the Conference agreed to a frontier along the Parapiti river for Paraguay. I doubt the existence of such evidence, but even if true it proves nothing beyond a *lapsus memoria* on Dr. Macedo's part. In order, however, that Dr. Cardozo might be fully informed and be in a position to disabuse his Government of any such aspirations, I have read to him the pertinent portions of my despatch #353 of January 14, 1937,¹ describing the discussions of the Committee of Three with Dr. Stefanich.

As stated in item (2) page 3 of my despatch #540 of October 21, 1937,¹ the Paraguayan delegation's instructions in October were not to negotiate on the fundamental question; also their intransigence

¹ Not printed.

was augmented by the false hopes given them by Dr. Saavedra Lamas. Nevertheless, some progress has been made since Dr. Zubizarreta, during the last two weeks, has at least discussed a final settlement with us and has made the above described offer for a permanent frontier.

This morning, in a final talk with him, I frankly warned Dr. Cardozo that if Paraguay would escape responsibility for the breakdown of the Conference, he must return from Asunción with a much better proposition than that offer. He argued that Paraguay juridically was entitled to stay on the intermediary line. I told him the mediatory delegates unanimously disagreed with that thesis, but leaving the legalities for my colleagues to discuss, he and his government must look at the realities—not what Bolivia would get but what Paraguay would have in contrast with prewar conditions; by ceding some of the occupied territory they could obtain a permanent peace highly advantageous to them from every aspect. I went into the economic, military, logistic and other commonsense phases of the situation in detail and admonished him at parting that: (a) If Paraguay insists on the intermediary line as a permanent frontier, the Conference will fail and another war become inevitable; (b) If Paraguay as a starting point for the direct negotiations will ask for the intermediary line as the maximum boundary but with a withdrawal eastward of 15 to 20 kilometres in the vicinity of the Villa Montes-Boyuibe road, then I believed the parties could gradually be brought into closer approximation; and a permanent frontier could be negotiated or left for arbitration to be located somewhere between that maximum and the Fortín Esteros line proposed by the Brazilian and Peruvian delegates and myself. Dr. Cardozo promised to present faithfully my views to President Paiva and other authorities in Asunción. He said he appreciated the responsibility which rested upon him and the Paraguayan government and was, personally, 90% plus in agreement with me. It remains to be seen whether the Paraguayan government and delegation will have the courage to face the facts and negotiate along the reasonable lines described on page 2 of my despatch #574. We should be able, fairly accurately, to size up the prospects shortly after Dr. Cardozo's return from Asunción, now scheduled for December 27.

Respectfully yours,

SPRUILLE BRADEN

BOUNDARY DISPUTES

ECUADOR AND PERU¹

722.2315/1035 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, April 17, 1937—7 p. m.

[Received April 18—1 : 14 a. m.]

22. The President has expressed the earnest hope that the Department may be able to take some action in the present impasse in the boundary negotiations. He is convinced that without such action the negotiations will fail and that a situation then will develop which will threaten peace in South America.

The President is of the opinion that the United States has a moral obligation to lend its influence at this time because as a result of statements of Mr. Fletcher² to the Ecuadorean Minister in 1922 negotiations were not initiated and the consequent delay has prejudiced Ecuador's position. The Ecuadorean Ambassador has been instructed to bring these points to the attention of President Roosevelt.

The Minister for Foreign Affairs informs me that this morning he inquired of Mello Franco³ of Brazil whether he would be willing to serve as an observer at the negotiations. The Minister is also making inquiries whether he would be acceptable to Peru.

Full report by air mail leaving tomorrow.⁴

GONZALEZ

722.2315/1035

Memorandum by Mr. Selden Chapin of the Division of Latin American Affairs

[WASHINGTON,] April 19, 1937.

After carefully going over the memorandum books in the Division I find a memorandum of January 31, 1922, with respect to three conversations between Mr. Fletcher, then Under Secretary of State, and the Ecuadoran Minister, Mr. Elizalde.

¹ Continued from *Foreign Relations*, 1936, vol. v, pp. 106-125.

² Henry P. Fletcher, Under Secretary of State, 1921-22.

³ Afranio de Mello Franco, ex-Minister for Foreign Affairs, of Brazil.

⁴ Despatch No. 748, April 17, not printed.

The Ecuadoran Minister called about ten days prior to January 31, 1922 (apparently it was on January 9, 1922), to inquire informally how the United States would regard an effort on the part of his Government to settle the Ecuadoran-Peruvian boundary dispute along the same lines as were then being followed with regard to the Peruvian-Chilean controversy. Mr. Fletcher stated in part as follows:

"I then told him that the Department was not prepared to give any expression of opinion at that time; that I was not familiar with the details of the controversy, and asked him to give me a memorandum of just how the matter stood and what his Government proposed to do. I intimated strongly, however, my personal opinion to the effect that the Ecuadoran Government should not complicate the situation at that time—which was before Peru had accepted the President's invitation—(presumably the invitation to participate in the Tacna-Arica conference.⁵ (SC)) and that I believed that it would be the part of wisdom to wait and see how our invitation was acted upon, et cetera."

The Ecuadoran Minister never submitted a memorandum since his Government stated that it had no concrete plans at that time. On January 31 he called again to see Mr. Fletcher, suggesting that Peru and Ecuador appoint representatives in Washington for the purpose of arranging for the settlement of their boundary dispute. Mr. Fletcher stated in reply,

"I informed him that we would take note of this and, while I could not make any expression which would indicate any intention or desire on our part to interfere in the matter now or at any future time in any way, he could say to his Government that if an arrangement of their difficulties satisfactory to both Governments could be reached this Government would be very gratified thereat."

Mr. Elizalde then insinuated "that arbitration of the difficulties by the United States would be, from our position and prestige in this hemisphere, et cetera, welcomed by his Government." Mr. Fletcher stated in reply, "I made clear that I could not discuss even the possibility of the United States acting as arbitrator," and in answer to the complimentary things which Mr. Elizalde had to say about the United States and the feeling that an American arbitrator would render a just decision, Mr. Fletcher stated in his memorandum:

"I again declined to consider this phase of the question and he requested that this Department take sympathetic note of the move which his Government had made looking toward a settlement of this question by direct approach to the Government of Peru. I told him that we would take due note of what he had had to say."

There is no other memorandum of a conversation in 1922 between Mr. Fletcher and the Ecuadoran Minister on the subject of the Ecu-

⁵ See *Foreign Relations*, 1922, vol. I, pp. 447-518.

dor-Peru boundary dispute, except the brief one of the conversation on January 9, 1922, included in the memorandum of January 31. Mr. Fletcher retired as Under Secretary on March 6, 1922.

722.2315/1041 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, May 7, 1937—6 p. m.

[Received 9:40 p. m.]

24. The President and the Minister for Foreign Affairs continue inquiry as to the Department's reaction vis-à-vis the memorandum submitted with my despatch 748, April 17.* When may I expect instructions in the premises?

GONZALEZ

722.2315/1041

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, May 11, 1937—6 p. m.

16. Your 24, May 7, 6 p. m. The Ecuadoran Ambassador referred to this matter three times—once to the President last June, and twice to Mr. Welles,⁷ the first time after he saw the President in June, the second time following his recent trip to Quito. On all occasions the Ambassador merely referred to the statements made by Mr. Fletcher as reported by the Ecuadoran Minister to his Government, and indicated the confidence of his Government that the United States would take every proper step to assist in the settlement of the boundary dispute. The Ambassador has been informed in reply that his Government can be assured of course of the friendly disposition of this Government, which has been, and which will continue to be, made manifest in every appropriate and practicable manner.

You may, if further inquiry is made of you, repeat to the President and Minister for Foreign Affairs the Department's attitude as set forth to the Ambassador.

HULL

722.2315/1054 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, June 9, 1937—6 p. m.

[Received 11:25 p. m.]

25. The President has informed me of the receipt of a note from Peru formally charging a breach of neutrality by the entry of Ecua-

* Not printed; memoranda submitted with this despatch covered conversations reported in telegram No. 22, April 17, 7 p. m., p. 46.

⁷ Sumner Welles, Under Secretary of State.

dorian troops in the Zarumilla neutral zone and adding that orders have been issued to repel by force any future incursions. The Ecuadorian Minister in Lima has been instructed to deny categorically this assertion.

The Minister for Foreign Affairs confirmed the foregoing. He is most perturbed over the situation and expressed the fear that any untoward incident in that district might be the cause of immediate hostilities. Inasmuch as the allegation is groundless it is interpreted as the forerunner to breaking off the negotiations in Washington.

The attitude of the President is most dangerous to peace in the Americas. He considers the negotiations fruitless and apparently is prepared to terminate them. He is even contemplating hostilities notwithstanding that he recognizes Peru's superior strength and resources and anticipates Ecuador's defeat. Regardless of these considerations he has convinced himself that armed conflict is the only alternative.

The President expressed the belief that the Department is preventing President Roosevelt from taking any positive action in the present impasse. He regrets this since without the President's influence he considers that the negotiations must fail and that relations may be ruptured immediately thereafter.

GONZALEZ

722.2315/1057

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

[WASHINGTON,] June 10, 1937.

I asked the Ambassador of Ecuador to call upon me this morning and communicated to him the contents of the telegram sent to the Department by the American Minister in Quito under date of June 9, 6 p. m.

I explained to the Ambassador that I was very seriously preoccupied with the information transmitted and particularly by the impressions Mr. Gonzalez had communicated to me of the attitude and understanding of the position taken by this Government which were alleged to exist on the part of President Páez.

With regard to the allegation that, "The Department of State is preventing President Roosevelt from taking any positive action in the present impasse", I said that, of course, the Ambassador knew better than I did what a strange misapprehension this was; that, as he knew, President Roosevelt was deeply interested in the successful termination of the negotiations between Peru and Ecuador for the solution of the boundary dispute; that he had himself addressed the two delegations, expressing his hope that an early agreement

would be found, and that he had referred to the controversy in public addresses—in one of them made not long ago. I said that the President felt very strongly exactly as the Secretary of State and I felt that, in view of the fact that the President was named in the protocol between Peru and Ecuador as the contingent arbitrator of the dispute, he must be scrupulously careful to avoid taking any action which would give rise to the unfounded impressions that he was bringing pressure to bear on one or the other of the parties to the dispute. I said that President Roosevelt was animated solely by a spirit of equal and warm friendship for both countries and because of his passionate desire to see peace maintained upon firm foundations on the American continent. In so far as the belief had been expressed that the Department of State is influencing President Roosevelt counter to his own inclinations, I said to the Ambassador that I knew, from his personal acquaintance with the President, that he would know that President Roosevelt would be guided solely by what he himself thought right and in this instance the President was confident that the stand he had taken was the one which would prove most helpful in the settlement of the controversy.

In so far as our desire to be helpful was concerned, I reminded the Ambassador that he knew from my prior conversations with him of the talks I had had with Ambassador Concha⁸ during the latter's recent visit to Washington. I said that I found Dr. Concha, here as in Buenos Aires, a sincere lover of peace, a very moderate minded and practical statesman, and that I knew from what he had said to me that Dr. Concha desired the negotiations in Washington to succeed. Dr. Concha had returned from Washington to Lima, had conferred with President Benavides; and I felt sure that his wise judgment would be given great importance by the President of Peru. I told the Ambassador further that it was generally reported in Lima that a new civilian government would soon be constituted in Peru and that there was considerable feeling that Dr. Concha himself would head this new government.

In view of all of these facts, I asked the Ambassador if he would not consider it peculiarly deplorable at this very moment, when the prospects seemed brighter than they have for some months past, for his Government to consider breaking off negotiations or even to contemplate hostilities. That, I said, was an inquiry which I made because of my friendship for him and for his country and from the standpoint of the interest of Ecuador itself. Another inquiry which I felt was not inappropriate was how it would be possible for the Government of Ecuador, after the peace treaties which it had signed

⁸ Carlos Concha, Peruvian Ambassador in Chile and former Minister for Foreign Affairs, had made a trip to the United States in 1936.

at the Buenos Aires Conference⁹ and in view of the unanimous desire on the part of all of the American republics there expressed always to resort to peaceful means of adjudicating disputes, now to contemplate hostilities when no act of aggression had been committed against Ecuador by Peru. I said that I was afraid that if other important governments of the American continent, like Ecuador, were to take such a step as this, public opinion throughout the continent would rapidly begin to feel that all that the American delegations at Buenos Aires had given to the cause of peace was mere lip service and of no practical benefit.

Finally, I reminded the Ambassador that, inasmuch as the Government of Peru had specifically stated in her reservations to the various peace instruments in Buenos Aires that she would not regard the pending boundary controversy with Ecuador as within the scope and jurisdiction of any of the peace treaties and conventions there signed, the only machinery in existence for the peaceful settlement of the boundary dispute were the protocols of 1924¹⁰ and 1936¹¹ and the negotiations now proceeding in Washington. If Ecuador withdrew from these negotiations, what peaceful means would be left for the solution of the controversy?

The Ambassador said that he would at once cable his Government along the lines of our conversation and would follow up this cable by an air mail letter to President Páez, in which he would go into great detail. He said that he felt that Mr. Gonzalez had probably unintentionally exaggerated and given the wrong color to the remarks which may have been made to him by President Páez. He said that, of course, his Government had been gravely disturbed by the allegations publicly made by Peru and was always fearful of a sudden rupture which would give rise to armed hostilities. He said, however, that he was confident that the Government of Ecuador would never make the first move. The Ambassador said further that he had consistently advised his Government never to be the first to break negotiations in Washington since these negotiations were the only definite guarantee which Ecuador could have for an eventual satisfactory settlement.

The Ambassador, as always, was most appreciative of the attitude which we took. He said that he fully understood the attitude assumed by President Roosevelt, which he believed the only possible and only truly helpful attitude; and that one of his own chief dif-

⁹ See Department of State Conference Series No. 33: *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).

¹⁰ *Foreign Relations*, 1924, vol. 1, p. 305.

¹¹ *Ibid.*, 1936, vol. v, p. 116.

faculties was the fact that the Ecuadoran delegates to the negotiations at Washington did not know American psychology nor understand the way in which they could be most helpful to their Government, and persisted in the belief that they must every day try to print in the newspapers attacks upon Peru or defenses of the Ecuadoran position.

In conclusion, I said that I felt the Ambassador knew us so well that there was no advice that I could give him as to how to deal with American public opinion. I stated finally that it was particularly regrettable that this incident had now arisen because I knew from our own Embassy in Lima that the opinion of the Peruvian Government towards the Government of Ecuador had become far more friendly and favorable as a result of the refusal of the Government of Ecuador last month to permit the Ecuadoran press to publish articles written by Aprista refugees attacking the President of Peru and the members of his administration.

The Ambassador said he would keep me closely in touch with all new developments of which he might learn.

S[UMNER] W[ELLES]

722.2315/1054

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, June 10, 1937—6 p. m.

18. Your June 9, 6 p. m. I have seen the Ambassador of Ecuador this morning and have expressed to him the earnest hope of this Government that at this moment, as there would appear to be good reasons to believe that a more favorable atmosphere was developing for the successful continuation of the boundary negotiations in Washington, no sudden step might be taken which would terminate the negotiations or would give rise to a situation which might lead to a more acute form of controversy.

I have explained fully that the President is familiar with every phase of the negotiations and has consistently felt that the way in which he could be most helpful to Ecuador and to Peru as contingent arbitrator was for him to maintain an attitude of the most friendly but scrupulous impartiality as between the two Governments and not attempt to bring moral pressure to bear upon one or the other since this might well give rise to unfounded conjecture.

I have reminded the Ambassador of the solemn agreement of all of the American republics at Buenos Aires to solve all disputes which might arise between them only by pacific methods, and I have urged caution and moderation as being in the best interests of the two Governments involved in the dispute.

The considerations which have been advanced to the Ambassador of Ecuador will be reported by him directly to President Páez, and it is not desired that you personally make any further representations either to the President or the Minister of Foreign Affairs. A copy of a memorandum of my conversation with the Ambassador will be sent to you by air mail for your confidential information.

HULL

722.2315/1068 : Telegram

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

LIMA, June 30, 1937—3 p. m.

[Received 6 p. m.]

33. President Benavides summoned me to the Palace at noon and informed me that he was taking a step in Washington today to relieve the impasse which has existed between the thesis supported by the Peruvian and Ecuadoran boundary delegations now in Washington. He stated that his purpose in calling me was that he wished to have conveyed to President Roosevelt the message that his proposal to submit the preliminary question (*asunto previo*) to the Hague Tribunal was being made merely to help along the negotiations. He wished me to stress the point that the step should not be considered in the least as possible lack of confidence in our President but on the contrary it was his idea that through this procedure the President would be left quite unhampered (*incolume*) to make the final decision in accordance with the protocol of 1924.

DREYFUS

722.2315/1068 : Telegram

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

WASHINGTON, July 6, 1937—1 p. m.

21. Your telegram No. 30 [33], 3 p. m. Please request an audience with President Benavides and state to him that President Roosevelt deeply appreciates his cordial message conveyed in your telegram; that the President's sole interest in the boundary negotiations is that it may be possible for Peru and Ecuador to find in the near future an amicable settlement of this long-standing question in order that friendly relations between all the countries of the Americas may be permitted to develop to the fullest extent; and that the President desires that President Benavides be assured that any plan which may be satisfactory both to Peru and Ecuador for hastening the termination of the pending boundary question will be viewed with most sincere gratification in the United States.

HULL

722.2315/1080

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

No. 5239

LIMA, July 10, 1937.

[Received July 22.]

SIR: I have the honor to refer to the Department's telegram No. 21 of July 6th, 1 p. m., conveying a message from President Roosevelt to President Benavides with reference to the latter's message to President Roosevelt concerning the Peruvian-Ecuadoran boundary negotiations.

President Benavides received me in audience at noon on July 9th. In compliance with the Department's instructions, I informed him that President Roosevelt had deeply appreciated his cordial message; that the President's sole interest in the boundary negotiations is that Peru and Ecuador may find it possible in the near future to reach an amicable settlement of this long-standing question in order that friendly relations between all the American Republics may develop to the fullest degree and that the American Government will view with most sincere gratification any plan which may be satisfactory both to Peru and Ecuador for hastening the termination of the pending boundary question. After he had heard the message, President Benavides said that he was gratified to learn that President Roosevelt had understood the intent of his proposal which had been made in the hope that it would relieve the existing deadlock between the delegates by submitting the previous questions for decision to the highly respected Tribunal of The Hague, and that there was not the least intention on his part to get away from the provisions of the Protocol of 1924, which leaves the final decision in this matter to President Roosevelt.

President Benavides stated that the reply to his proposal had not yet been received from the Ecuadoran Government.

Respectfully yours,

LOUIS G. DREYFUS, JR.

722.2315/1088

The Minister in Ecuador (Gonzalez) to the Secretary of State

No. 881

QUITO, August 26, 1937.

[Received September 2.]

SIR: I have the honor to inform the Department that in a conversation on August 25th with the Minister for Foreign Affairs he brought up the subject of the negotiations in Washington for the settlement of the Ecuadorean-Peruvian boundary dispute. He stated that he had authorized his Delegation in Washington, in response to the Peruvian proposal to submit the juridical question to The Hague, to propose

the submission of the whole controversy to arbitration by the President of the United States. He said quite frankly that his purpose is to prevent the removal of the negotiations from Washington, and his faith in President Roosevelt to hand down an equitable award.

He added that he had further authorized the Ecuadorean Delegation to propose that, if Peru refused arbitration by President Roosevelt, an agreement be made on the line of the García-Herrera Treaty, submitting to the arbitration of President Roosevelt the zone comprised between the Pastaza and Morona Rivers. He explained that this line had been agreed to by the Ecuadorean Delegate Herrera and the Peruvian Delegate García. Furthermore, the Ecuadorean Congress had ratified that line, and the Peruvian Congress had also ratified it with the exception of the zone between the two rivers mentioned. The Minister expressed the belief that this is the most reasonable offer that can possibly be made by his Government. He added, parenthetically, that he would probably be stoned by his own people for such a maximum concession.

The Foreign Minister then expressed the pessimism he feels that Peru will not agree to either proposal. At that moment he became especially agitated and remarked "it would seem that war is our only recourse".

Respectfully yours,

ANTONIO C. GONZALEZ

722.2315/1107

The Ambassador in Peru (Steinhardt) to the Secretary of State

No. 143

LIMA, December 1, 1937.
[Received December 7.]

SIR: I have the honor to report that in the course of a talk yesterday with Dr. Carlos Concha, the Minister for Foreign Affairs, he requested me to convey the following message to Mr. Welles:

He said that in connection with the Ecuadoran boundary dispute, he had instructed Dr. Francisco Tudela y Varela, before his recent departure for Washington, to seek to terminate the discussions along the lines of general principles and legal doctrine, and to commence discussing a practical solution. He said he thought the discussion of general principles had continued long enough and that the time had come for the respective emissaries to consider and endeavor to find a practical solution. He added that as he hoped the negotiations would now enter the final stage, he had instructed Dr. Tudela to keep in the closest possible touch with Mr. Welles and to consult him frequently and without reservation, as he was certain the Under Secretary could and would be glad to be of great assistance to both parties during the final stages of the negotiations.

Dr. Concha concluded by observing that he was about to make a determined effort to reach a final solution and that while the position thus far taken by the Ecuadoran Government made his task particularly difficult, he was not without hope that—with Mr. Welles' assistance—an agreement satisfactory to both parties could be arrived at.

Respectfully yours,

LAURENCE A. STEINHARDT

HONDURAS AND NICARAGUA ¹³

715.1715/510 : Telegram

The Chargé in Honduras (Cramp) to the Secretary of State

TEGUCIGALPA, August 6, 1937—5 p. m.
[Received 9 p. m.]

27. The Minister for Foreign Affairs called at the Legation this morning to request the possible extension of the good offices of the Government of the United States in a matter which has arisen concerning the boundary between Nicaragua and Honduras.

On August 4 letters arrived here from Nicaragua bearing a 10 centavos Nicaraguan air mail stamp on the face of which appears a map of section of Central America with a considerable portion of Honduran territory as shown on most maps marked "territory in litigation."

This area includes the territory of Mosquitia and about half of the Departments of Colon and Olancho.

The Minister for Foreign Affairs stated that Honduras had considered the boundary question closed since the arbitration award of the King of Spain in 1906; ¹⁴ that Nicaragua had again raised the question in 1918 ¹⁵ at which time the United States had offered their services which were accepted by Honduras but not by Nicaragua, but that the matter had been dropped and had remained dormant since then.

He showed me the note to be sent to the Nicaraguan Government today which stated: that the Honduran Government regarded this stamp issue as an unfriendly act; that it was an infringement of its national sovereignty; that although it realized the danger of arousing hostile feeling among peoples of neighboring nations it must request the immediate withdrawal of the stamp from circulation; and that it was sure the Nicaraguan Government in the interest of maintaining friendly relations would order such a withdrawal.

¹³ Continued from *Foreign Relations*, 1931, vol. I, pp. 792-808.

¹⁴ Award of December 23, 1906, *British and Foreign State Papers*, vol. c, p. 1096.

¹⁵ See *Foreign Relations*, 1918, pp. 11 ff.

In addition to this vigorous protest the Minister told me that all mail received bearing the stamp would be returned to Nicaragua undelivered but that the Honduran Government would be satisfied with the immediate withdrawal of the stamp and that he hoped for an amicable settlement.

I will keep Department informed of developments.

CRAMP

715.1715/518 : Telegram

The Chargé in Honduras (Cramp) to the Secretary of State

TEGUCIGALPA, August 27, 1937—8 p. m.

[Received August 28—10:10 a. m.]

30. My telegram of August 6, 5 p. m. In a note dated August 26 to the Nicaraguan Minister for Foreign Affairs, the Honduran Government "energetically protests" against the publication in Managua of a map showing an alteration in the frontier from that established by the award of 1906. The note ends stating that the Honduran Government "once and for all takes the firm stand that the demarcation of the boundary between Honduras and Nicaragua was fixed by the arbitral decision of the King of Spain."

Feeling against Nicaragua is running high here and the Nicaraguan Minister told me yesterday he feared that the situation might get out of hand and that the Honduran Government might bring about a crisis "by its provocative attitude."

I will be guided in the matter by the Department's strictly confidential instruction Number 103 of April 30th, 1936,¹⁶ outlining our policy in the American Republics.

Repeated to Managua.

CRAMP

715.1715/517 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, August 28, 1937—7 a. m.

[Received 10:45 a. m.]

86. On August 26th I airmailed my despatch No. 593 dated August 26th¹⁷ which should arrive in Washington Monday [*Tuesday?*] or so, the despatch describing the present state between Nicaragua and Honduras, to be briefly summarized as follows:

In 1935 Honduras issued an airmail postage stamp with a map of that country which depicted the territory in dispute between Hon-

¹⁶ *Foreign Relations*, 1936, vol. v, p. 134.

¹⁷ Not printed.

duras and Nicaragua as definitely within Honduran boundaries, even including, according to President Somoza, territory which has been and is controlled by Nicaraguan authorities. The Minister for Foreign Affairs informs me that at the time when the Honduran stamp was issued Nicaragua did not consider the matter worthy of protest.

On August 10th of this year a Nicaraguan airmail stamp with a map of Nicaragua was put into circulation which segregated the area in question and labelled it "territory in dispute."

Honduras presented a note of protest, requesting that the stamp be withdrawn from circulation.

The Honduran position is reported to me to be based on the arbitral award of the King of Spain, which assigned the territory to Honduras, an award which Nicaragua—for factual and juridical reasons adduced—did not accept. It will be recalled that the good offices of the United States, with a view to obtaining a settlement, were offered in 1918, and that in 1921¹⁸ the Secretary of State suggested arbitration before the Chief Justice of the United States, a suggestion which Nicaragua accepted but Honduras declined.

The territory is now supervised by Nicaragua and Honduras under a "status quo" arrangement which divides it, for present purposes, into two zones, one under each of the two nations.

General Somoza invited me to the Casa Presidencial yesterday evening to complain regarding the matter, stating that he is deeply concerned and wishes the Department of State to have complete information.

He informed me that the President of Guatemala has offered his mediation in the stamp incident and also his arbitration to settle the whole question of the territory.

To gain time, he explained, President Somoza replied to the Guatemalan proposal that he could not give a decision until after despatching Nicaragua's reply to the Honduran note of protest. Such reply, he told me, will be despatched Tuesday.

He informed me that the Nicaraguan note will be drawn with moderation but must convey refusal to withdraw the stamp and a statement of Nicaragua's position as regards the territory in question.

Thursday, he said, he explained his position to the Honduran Minister and called his attention to the following circumstances: that he (the President) had loyally kept his frontier territory clear of Honduran political *émigrés*, by considerable labor and at the expense of political affinities with the *émigrés*, who are Liberals; that he knew that Honduras is strengthening her border forces by gathering local levies, but that he has not increased his men or moved a soldier; that

¹⁸ See *Foreign Relations*, 1921, vol. I, pp. 234 ff.

his policy will be to await aggression if the matter comes to a conflict but that he cannot fail to protect Nicaraguan interests if driven. He stated to me that he asked the Honduran Minister to inform President Carias of the above facts and that, through the Minister, he requested Carias to stop troop movements in the interest of preventing friction or incidents which can drive the two countries into a war that would ruin them both.

Further, he specifically asked that I convey to the Department (1) that he will accept the mediation of the President of Guatemala to put an end to the present friction between the two countries but (2) as regards the offer of arbitration of territorial rights he would prefer to have the American Government (that is, the Department of State or its nominee) as arbitrator, and in case this is not possible, "to have the Department's advice as to the arbitration proposed by President Ubico".¹⁹

The situation here is quiet, and while the newspapers have given ample attention to the affair of the stamps, they have handled it with moderation and an expressed desire for concord.

The President, however, regards conditions as serious.

CASTLEMAN

715.1715/517 : Telegram

The Secretary of State to the Chargé in Honduras (Cramp)

WASHINGTON, August 28, 1937—5 p. m.

16. The following telegram from the American Chargé d'affaires in Managua is repeated for your confidential information.

[Here follows text of telegram No. 86 of August 28, 7 a. m., from the Chargé in Nicaragua, printed *supra*.]

Without making any inquiries whatever please telegraph your opinion in this matter.

HULL

715.1715/522 : Telegram

The Chargé in Honduras (Cramp) to the Secretary of State

TEGUCIGALPA, August 29, 1937—9 p. m.

[Received August 30—1 : 54 p. m.]

31. Department's telegram No. 16, August 28, 5 p. m. A summary of my despatches being airmailed tomorrow ²⁰ is as follows:

The Nicaraguan Minister told me in substance data in the Legation's telegram from Managua but denied knowledge of his Government's

¹⁹ Jorge Ubico, President of Guatemala.

²⁰ Not printed.

policy in the matter at issue. He added that he was considerably worried that the situation was getting out of hand here.

The following day the Honduran Government sent a second vigorous note of protest to Managua as summarized in my telegram No. 30, August 27, 8 p. m.

For the past 2 weeks the local press has been entirely silent on the matter, but 2 days ago the semi-official newspaper published the text of the award of 1906 and last night a bitter editorial was released, denouncing countries which broke their word and did not line up to treaty obligations.

In this capital feeling against Nicaragua is strong. While public demonstrations have been prohibited by the President there is considerable talk of war and the temper of the people is becoming increasingly antagonistic.

Last night José María Albir a Nicaraguan and private secretary to the President who has been his most able and conservative adviser and the "brake" on government policy was dismissed which will probably be taken in Managua as further evidence of hostile feeling.

The Honduran Government claims that the King of Spain's award is definitive and that it will not open the boundary question again to arbitration. However, I believe they might accept the good offices of the United States merely from their view point to establish the legality of the arbitration decision of 1906.

I consider the situation here as serious and with strong possibilities of this Government, under its present advisers, taking some misguided action.

CRAMP

715.1715/517 : Telegram

The Secretary of State to the Chargé in Nicaragua (Castleman)

WASHINGTON, August 30, 1937—5 p. m.

50. Your 86, August 28, 7 a. m. Please arrange through the Minister of Foreign Affairs for an immediate interview with President Somoza.

Please say to President Somoza that this Government greatly appreciates his action in informing it of the present friction between Nicaragua and Honduras and his interest in having the American Government act as arbitrator or offer its advice as to the arbitration of the boundary difficulty. The Government is gratified to learn of the evident statesmanlike determination of President Somoza not to allow the present friction to develop into a war which, as he states, would be ruinous to both countries. You may express the confidence of this

Government that the Nicaraguan reply to the Honduran note will be conciliatory in tone and offer a basis for peaceful resolution of the present friction. A pacific resolution of the difficulty would redound to the international renown for statesmanship of President Somoza and his Government.

If the President inquires, you may inform him that consideration is being given to his suggestion that this Government might arbitrate the question of territorial rights.

In discussing the matter with the Minister of Foreign Affairs you might inform him of the recent statement of Dr. Luis Manuel Debayle to the Chief of the Division of the American Republics that upon his return to Nicaragua he would do everything possible to bring about a speedy termination of the controversy.

HULL

715.1715/525 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, August 31, 1937—4 p. m.

[Received 11:25 p. m.]

89. Last night I communicated to the Minister of Foreign Affairs the contents of the Department's telegram No. 50, including the penultimate paragraph.

He dictated to me in English:

"President Somoza is very pleased with the appreciation [*evaluation*] of his attitude and wishes to let you know that he has not done more than fulfill his duty as President of Nicaragua and a loyal friend of the United States, in whose hands he wishes to put the arbitration of the whole question."

He stated that the Honduran note is so strong and categorical that reply to it forces upon his Government a firm statement of the Nicaraguan position, but that certainly Nicaragua's note will leave the door open to conciliation. I am to receive copies of the exchange of notes and will forward them. He stated that in view of Honduran preparations his responsibility is such that he must now look to defence of the Nueva Segovia frontier and he plans day after tomorrow to reinforce his weak forces with 30 men led by Atocotal and Somoto. This will be the first Nicaraguan military move. In my opinion fear of political consequences, if war comes and he is caught unprepared, makes him take the step. He is definitely for peace.

Doctor Debayle actively engaged in matter and is a considerable influence on peaceful side.

CASTLEMAN

715.1715/518: Telegram

The Secretary of State to the Chargé in Honduras (Cramp)

WASHINGTON, August 31, 1937—5 p. m.

17. On August 28 President Somoza informed our Legation at Managua of his concern regarding the present friction between Nicaragua and Honduras and stated his interest in having the United States Government act as arbitrator or offer its advice as to the arbitration of the boundary difficulty, particularly with respect to the offer of the President of Guatemala to act as mediator or arbitrator. On August 30 the Legation was instructed to seek an interview with President Somoza and to express to him the confidence of this Government that the Nicaraguan reply to the first Honduran note would be conciliatory in tone and offer a basis for peaceful resolution of the present friction. The Legation was instructed to inform the President, if he made further inquiry, that consideration was being given to his suggestion that this Government might arbitrate the question of territorial rights.

Please endeavor to arrange through the Minister of Foreign Affairs for an immediate interview with President Carias in which you should inform him that this Government has viewed with increasing concern the controversy between Nicaragua and Honduras. You should express to him the confidence of this Government that the Honduran Government will do all in its power not to permit the present friction to develop into a more serious controversy which would endanger the friendly relations between the two countries. You should remind him that the recent conference at Buenos Aires²¹ was devoted primarily to the adoption of accords for the maintenance of peace on this hemisphere, and that it would now be a misfortune that so shortly after that conference two friendly nations could not get together and compose their difficulties on a high plane of statesmanship. A peaceful solution of the present friction would add to the international renown for statesmanship of President Carias and his Government. You may state that the Government of the United States is disposed to do whatever it can to be of assistance.

The Department has noted with interest your own belief that the Honduran Government might accept the good offices of the United States, merely however, from the point of view as to whether or not the arbitral decision of the King of Spain of 1906 is legal. If the President makes any suggestion that the United States use its good offices you are instructed to inform him that you feel confident that your Government will give any suggestion that he cares to make the most serious consideration.

²¹ See Department of State Conference Series No. 33; also *Foreign Relations*, 1936, vol. v, pp. 3 ff.

In this connection please endeavor discreetly to ascertain whether the President of Guatemala has also offered his services as mediator or arbitrator to Honduras and if so the reaction or reply of the Honduran Government to this offer.

Please repeat to the Legation at Managua all telegrams to the Department.

HULL

715.1715/528 : Telegram

The Chargé in Honduras (Cramp) to the Secretary of State

TEGUCIGALPA, September 1, 1937—8 p. m.
[Received September 2 (?)—11:48 a. m.]

34. Department's telegram No. 17, August 31, 6 [5] p. m. A detailed memorandum²² of my interview with President this afternoon being airmailed tomorrow. The principal points brought out were:

(1) That Honduras would not permit the question to be reopened to arbitration.

(2) That Ubico had offered good offices but Honduras had merely acknowledged receipt and taken no further action.

(3) That a possible acceptable solution might be continuation of mediation of 1921 but that more time was needed to study this possibility.

(4) That Honduras would not take aggressive steps.

I believe the President to be sincere in the hope of a peaceful solution but the temper of the people is becoming increasingly difficult to control.

CRAMP

715.1715/529a : Telegram

The Secretary of State to the Chargé in Honduras (Cramp)

WASHINGTON, September 2, 1937—6 p. m.

19. The Department has been informed that the Minister of War has informed Mr. Turnbull of the United Fruit Company that Honduras has not sent as yet a single man into the disputed territory or added to its forces along the already agreed upon border and is disposed to withhold moving any troops provided that the Nicaraguan Government agrees to do likewise.

For your information only, the Department was informed this morning by telephone by Dr. Luis Manuel Debayle in Nicaragua that Nicaragua is contemplating sending troops to protect border towns but only because Honduras has already dispatched troops into the

²² Despatch No. 797, not printed.

disputed territory. The Department has reason to believe that if the Honduran Government will agree to maintain the *status quo* with respect to troops both in the disputed territory and along the already agreed upon border the Nicaraguan Government will agree to do likewise.

You are requested therefore to endeavor to secure a confirmation of the statement which the Minister of War is said to have made to Turnbull as quickly as possible.

HULL

715.1715/529a Suppl. : Telegram

The Secretary of State to the Chargé in Nicaragua (Castleman)

WASHINGTON, September 3, 1937—6 p. m.

53. Department's no. 52, September 2, 6 p. m.²³ Please seek an immediate interview with the proper authority including the President if you believe it appropriate and advisable, and state that the Honduran Government has assured the Department that no Honduran troops have been dispatched to the border and that the Honduran Government will agree not to move any troops if Nicaragua agrees likewise. You will please express the earnest hope of this Government that the Government of Nicaragua, in order to minimize the possibility of an armed clash, will find it possible to agree with the Honduran Government not to dispatch troops either to the section of the border already agreed upon or into the disputed territory.

If the Government of Nicaragua agrees to this proposition you will then suggest that it would seem desirable for the two Governments to confirm the arrangement directly, one to another, through their accredited diplomatic representatives. In this case advise the Legation at Tegucigalpa directly so that it may make a similar suggestion to the Honduran Government. Repeat to the Department your telegram to the Legation at Tegucigalpa.

HULL

715.1715/549a : Telegram

The Secretary of State to the Chargé in Honduras (Cramp)

WASHINGTON, September 4, 1937—5 p. m.

24. Department has instructed Legation Managua to telegraph you directly regarding arrangement for suspension of troop movements to border. You may use your informal good offices to expedite con-

²³ This telegram transmitted to the Legation in Nicaragua for its "strictly confidential information and not for discussion with anyone" the text of telegram No. 19, September 2, 6 p. m., to the Chargé in Honduras, *supra*.

firmation of arrangement as rapidly as possible. Communicate directly with Legation Managua regarding this matter, repeating all telegrams to the Department.

HULL

715.1715/545 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, September 5, 1937—4 p. m.

[Received 9:11 p. m.]

95. Yesterday a decree was issued here prohibiting circulation of the Honduran map stamp in Nicaragua.

Somoza would heartily welcome a chance for a common withdrawal of the map stamps and thinks it had best be done by a quiet agreement between the two Governments, possibly little by little, and without publicity.

He says that Nicaraguan Foreign Office mail to the Nicaraguan Legation at Tegucigalpa is delivered there with the Honduran map stamp on it. He considers this probably the work of a subordinate, but not helpful.

The sticker was on all letters in today's air mail from Honduras, which were sent back in accordance with decree mentioned above.

Repeated to Tegucigalpa.

CASTLEMAN

715.1715/548 : Telegram

The Chargé in Honduras (Cramp) to the Secretary of State

TEGUCIGALPA, September 6, 1937.

[Received 9:40 a. m.]

47. The following telegram has been sent to Managua September 5, 10 a. m. Blue seal showing Honduran map being placed on Foreign Office notes and all official correspondence as well on all mail. Furthermore blue lapel buttons showing the same map being worn.

CRAMP

715.1715/543 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, September 6, 1937—2 p. m.

[Received 5:22 p. m.]

96. For Duggan.²⁴ Cramp and I have arranged by telephone that the Foreign Offices of Nicaragua and Honduras are to talk by telephone

²⁴ Laurence Duggan, Chief of the Division of the American Republics.

at 4 this afternoon to arrange simultaneous presentation of assurances that troops will not be moved, covering the following points: hour of presentations, form and extent of assurances, appropriate publicity.

We will telegraph after the interview.

CASTLEMAN

715.1715/552 : Telegram

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

SAN JOSÉ, September 6, 1937—8 p. m.

[Received September 7—12: 04 a. m.]

59. Following week-end surge of public sentiment favorable to such action and apparently after consultation with Salvador, Costa Rican Government late this afternoon offered mediation to Nicaragua and Honduras.

Reports from Managua indicate that conflict was in process of adjustment before this step taken.

HORNIBROOK

715.1715/551 : Telegram

The Chargé in Honduras (Cramp) to the Secretary of State

TEGUCIGALPA, September 6, 1937—8 p. m.

[Received September 7—1: 22 a. m.]

50. Successful conversation took place between the Foreign Ministers this afternoon and joint assurance that neither country will send troops to the frontier region will be released simultaneously tomorrow morning at 11.

I introduced the Foreign Minister here to Doctor Reyes²⁵ and left the room during the entire conversation in order to eliminate any indication that I was party to the agreement.

The President and the Government here have reacted most favorably following first step toward bettering relations between the two countries.

Referring to my telegram 45, September 4, 10 p. m.²⁶ I suggested to the Chargé d'Affaires in Managua this morning over the telephone that this Government would consider completely eliminating all mention of the present dispute over the radio here and that he discover whether the Nicaraguan Government would do likewise.

Following the agreement not to move troops, the Foreign Minister agreed to prohibit all radio broadcast concerning the question and to restrict the press to dignified comment and to discontinue all scurrilous articles.

²⁵ Manuel Cordero Reyes, Nicaraguan Minister for Foreign Affairs.

²⁶ Not printed.

These two steps will go far towards relieving the present tension and I believe this Government would be amenable to any means by which the dispute can be settled with dignity.

CRAMP

715.1715/550 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, September 6, 1937—9 p. m.

[Received September 7—2:22 a. m.]

97. To Mr. Duggan. In pursuance of instructions telephoned by Mr. Duggan to telegraph covering the period subsequent to our telephone conversation of Saturday 3 p. m., I report as follows: Saturday night at 9 o'clock Dr. Debayle, the President's intimate counselor, returned from the country. I then discussed with him the proposition of the exchange of Honduran-Nicaraguan assurances against the movement of troops to the frontier and arranged to see the President next morning.

Sunday morning the President received me at 11 o'clock and we talked until 12, when he left town. The only arrangement which we could conceive, in view of his insistence upon American assistance in arranging things, as he now deeply distrusts the Hondurans, was to have the American Legations in Managua and Tegucigalpa arrange synchronization of the presentation of assurances at the two capitals.

It was emphasized as clearly understood that any action which must be taken by his [*this?*] office would be merely to help the two Governments get together, and nothing more, without any guarantee of engagements which the two countries might enter into.

Telegraph offices being closed most of Sunday, I could not communicate until after 5 p. m. and by that time a more desirable plan suggested itself, which I could communicate to our Chargé in Tegucigalpa, and get his reply and comments, more expeditely by telephoning next morning.

I saw Dr. Debayle next morning at 10. I suggested to him the proposition of having the heads of the Nicaraguan and Honduran Foreign Offices talk by telephone and arrange matters between them and, in our conversation, led him to consider that the points to be covered might well be (1) the hour for the presentation of assurances by the diplomatic representatives accredited in the two countries, (2) the form and extent of the assurances, and (3) the handling of publicity. Debayle telephoned to the President and obtained his approval. The telephone conversation between the two Ministers was tentatively set at 4 p. m. and the presentation of the assurances by the diplomats at 11 tomorrow morning (Tuesday).

At 12 I talked by telephone with Cramp at Tegucigalpa, conveying these propositions for the consideration of the Government of Honduras. He telephoned me at 1:30 that President Carias was "enthusiastic and delighted". At 4 Cramp and I introduced the two Ministers for Foreign Relations over the telephone and both definitely retired, leaving them to discuss matters and make their arrangements.

After the telephone conversation the Nicaraguan Minister of Foreign Affairs told me that it had been agreed that the two accredited diplomats are to present the assurances to the two Presidents at 11 o'clock Tuesday morning.

The assurances are to be worded essentially as follows (from the telegram of instructions sent by the Foreign Office to the Nicaraguan Minister at Tegucigalpa) :

"The Government of Nicaragua, desirous of facilitating a pacific settlement of the present friction, has authorized me to inform Your Excellency that, on a basis of strict reciprocity it engages itself not to send troops to the frontier region between the two countries. It is with the greatest satisfaction that the Government of Nicaragua avails itself of this opportunity to reiterate to the Government over which Your Excellency so worthily presides its good wishes and respectful consideration."

Publicity is to be released to the newspapers simultaneously in the two capitals.

President Somoza appears anxious to end the friction if he can do so with decorum according to the criteria of the country. The public aspect here is calm, now that radio blackguarding has ceased. Still, the spontaneity and enthusiasm of demonstrations in the provincial cities at the time of the radio war, the growing sentiment in Managua at that time, the more recent mass offers of services received by Somoza from chauffeurs, railroad men and similar, as well as other evidences, indicate that there is a feeling under the surface which, if provoked, can create a serious situation.

Repeated to Tegucigalpa.

CASTLEMAN

715.1715/558: Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, September 7, 1937—noon.

[Received 2:42 p. m.]

98. For Mr. Duggan. Referring to my telegram No. 97, September 6, 9 p. m., Honduran presentation of assurances took place at 11 with reported cordiality. Shall report later regarding press handouts.

Repeated to Tegucigalpa.

CASTLEMAN

715.1715/559 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, September 7, 1937—5 p. m.

[Received 8:42 p. m.]

100. Referring to my telegram No. 98, the Honduran Minister's statement of assurances will appear in tomorrow morning's Managua newspapers, which are on the streets tonight, there being no evening papers, accompanied by an expression of gratification by the President of Nicaragua.

No mention of American action will appear.

Repeated to Tegucigalpa.

CASTLEMAN

715.1715/565 : Telegram

The Chargé in Honduras (Cramp) to the Secretary of State

TEGUCIGALPA, September 7, 1937—6 p. m.

[Received 10:50 p. m.]

52. The joint assurances of the Nicaraguan and Honduran Governments, together with their covering letters, were prominently published this afternoon in the press without comment.

The Foreign Office desired to mention that this had been done through the good offices of the Legations, but I insisted no mention be made of our part therein and the press makes no reference thereto.

The Foreign Minister informed me this morning that he thought the reaction throughout the country would be favorable and that he was more than pleased with this first step toward the reestablishment of good relations with Nicaragua.

I expect to have this Government's comments on the proposal of mutual withdrawal of the map stamps tomorrow.

CRAMP

715.1715/551 : Telegram

The Secretary of State to the Chargé in Honduras (Cramp)²⁷

WASHINGTON, September 7, 1937—7 p. m.

25. Your 50, September 6, 8 p. m. The Department desires you to seek an immediate audience with the Minister for Foreign Affairs and to express to him its sincere gratification over the statesmanlike action taken by him in conjunction with the Nicaraguan Foreign Minister in telephonically arranging for the maintenance of the

²⁷ A similar telegram was sent on the same date to the Chargé in Nicaragua as No. 54.

military *status quo* in the area of the border common to Honduras and Nicaragua. You may add that this amicable adjustment of a difficult problem prompts the Department to express the renewed hope that a friendly solution of such questions as remain may be happily and speedily achieved.

HULL

715.1715/568 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, September 7, 1937—7 p. m.

[Received 10:30 p. m.]

102. General Somoza would be glad to have a neutral zone on the frontier, but his practical concept of such a zone, while reasonable from a Nicaraguan viewpoint, would involve withdrawals by Honduras to which I firmly believe she would not consent, and the communication of which might even possibly arouse Honduran indignation.

Cramp and I have discussed the matter by telephone. He did not receive a favorable reaction to his very guarded inquiry at Tegucigalpa, and he and I venture to believe that this is not the moment for the idea but that it had better be left dormant.

Repeated to Tegucigalpa.

CASTLEMAN

715.1715/571 : Telegram

The Chargé in Honduras (Cramp) to the Secretary of State

TEGUCIGALPA, September 7, 1937—midnight.

[Received September 8—2:15 p. m.]

54. I was told this evening by the Minister for Foreign Affairs that Honduras will not reopen the frontier limitation question to arbitration. I gathered in my conversation with him that the basis for mediation which the Government will consider is for the definition of the obscure points mentioned in the alleged Nicaraguan acceptance of 1906, which mostly concern the area around Teotecacinte.

He told me personally and in strictest confidence that the Government was not entirely adverse to the offer of President Ubico, but that it would prefer, if possible, to find some other means of solving the question.

CRAMP

715.1715/574: Telegram

The Chargé in Honduras (Cramp) to the Secretary of State

TEGUCIGALPA, September 8, 1937—noon.

[Received 5:13 p. m.]

57. For Duggan. Referring to our conversation this morning, I have suggested to Castleman that he obtain some statement from President Somoza with reference to his desire for reciprocal withdrawal of the stamps, which could be quoted direct to the President of Honduras tomorrow.

[CRAMP]

715.1715/575: Telegram

The Chargé in Honduras (Cramp) to the Secretary of State

TEGUCIGALPA, September 8, 1937—1 p. m.

[Received 4:34 p. m.]

58. I have just learned that the Director of Posts here has agreed not to place the blue sticker on mail for Nicaragua, reciprocating the agreement of the Director of Posts in Nicaragua not to put the Nicaraguan stamp on mail destined here. This was arranged through the good offices of Pan American Airways in both capitals.

CRAMP

715.1715/576: Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, September 8, 1937—5 p. m.

[Received 9:26 p. m.]

60. For Duggan. It is now believed that, should the Department approve of again presenting the matter of withdrawal of stamp in accordance with this morning's conversation and the Legation's telegram No. 57, September 8, noon, it could be handled more effectively through the Foreign Minister rather than direct with the President.

ERWIN

715.1715/582a: Telegram

The Secretary of State to the Minister in Honduras (Erwin)

WASHINGTON, September 8, 1937—7 p. m.

26. On the occasion of your visit tomorrow to the Foreign Minister the Department desires you to repeat its gratification of the action taken by him to prevent an increase in the tension existing between Honduras and Nicaragua. The Minister's highly statesmanlike attitude and action augur well for a solution of the present controversy.

You may then state the hope of this Government to Dr. Lozano that now that mutually satisfactory steps have been taken with regard to troop movements to the frontier, both Governments will endeavor to find some means of settling in an equally satisfactory manner the immediate cause for the recent flaring up of the long-standing boundary dispute. You may say that your Government has been confidentially informed that the Government of Nicaragua would welcome an opportunity for a mutual withdrawal of the map stamps and other official printed insignia and considers that this might best be accomplished by an agreement arrived at between the two Governments and without publicity. The desirability of withdrawing the stamps gradually has been emphasized. You may inform the Minister that it would certainly redound to the reputation which his country has for peace if some such arrangement as that indicated or any other arrangement that is equally agreeable to the two Governments could be arrived at.

In concluding you may inform the Minister of the Department's belief that some such action as above indicated would be highly beneficial and would in no wise prejudice the position of Honduras with respect to the existing controversy but on the contrary would give a new indication to the Western Hemisphere of Honduras' intention to adhere to peaceful means in the settlement of international disputes. You should, of course, inform the Minister that these views of your Government are merely presented for his consideration and because of the lasting friendship of the United States for his country.

You may permit the Minister to read but not to retain a paraphrase of the present telegram which is being repeated to Managua.²⁸

HULL

715.1715/576 : Telegram

The Secretary of State to the Minister in Honduras (Erwin)

WASHINGTON, September 9, 1937—11 a. m.

27. Your no. 60, September 8, 5 p. m. Department leaves to your discretion procedure to be followed.

HULL

715.1715/583 : Telegram

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

SAN JOSÉ, September 9, 1937—11 a. m.

[Received 1 p. m.]

61. Referring to my telegram No. 59, September 6, 8 p. m., copies of correspondence furnished by Foreign Office evening of September 8 show that Nicaragua and Honduras politely reject Costa Rican offer,

²⁸ Sent to Managua as Department's telegram No. 56, September 8, 7 p. m.

former considering as still pending United States 1918 [apparent omission]²⁹ and later feeling that owing to action of friendly governments adjustments already under way. Guatemala had made offer and would welcome collaboration but has had official notice that good offices of the United States already accepted. Salvador confident adjustment would be reached but ready to lend friendly aid in event of failure or in response to indication from Governments concerned that intervention would be welcome.

HORNIBROOK

715.1715/595 : Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, September 10, 1937—6 p. m.

[Received 11 p. m.]

63. For Duggan. Confirming this afternoon's telephone conversation the Honduran Government states that it cannot withdraw the 1935 stamp. However, as a friendly gesture it will immediately suppress the blue sticker.

It sees no reason why the *status quo* of the respective stamps cannot be maintained without affecting consideration of the next step towards the solution of the controversy.

ERWIN

715.1715/593 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, September 10, 1937—11 p. m.

[Received September 11—2:26 a. m.]

108. A morning paper prints the text of the exchange of notes between Costa Rica and Nicaragua relative to the Costa Rican offer of mediation, also the Honduran reply to the Costa Rican offer, a Guatemalan communication to Costa Rica relative to Nicaragua's reply to its offer of mediation, and a Salvadoran note of the Government of Costa Rica.

Minister for Foreign Affairs states that this material was given out in Costa Rica, to his annoyance.

The Nicaraguan reply to Costa Rica, as principle, courteously declines the Costa Rican offer, saying "(my Government) is in the case of informing (you) that, as it considers the mediation initiated from the year 1918 by the Government of the United States of America (to be still) pending, it has already informed that Government, with motive of the new difficulty which has arisen in relation to the old

²⁹ For possible clarification, see fifth paragraph of telegram No. 108, September 10, 11 p. m., from the Chargé in Nicaragua, p. 74.

question of the frontier between Honduras and Nicaragua, of the satisfaction with which it would see the continuance of its good offices. The Department of State has advised that it is giving the matter its most attentive consideration." The note further states Nicaragua gave the same reply to Guatemala's offer, and adds, "in any case, if my Government should remain free from the engagements mentioned nothing would be more welcome to it than" to confide the obtention of a solution to the President of Costa Rica.

The Honduran note states in declining the Costa Rican offer, that "due to the measures of friendly Governments an understanding has been reached between the Foreign Offices of the two nations prepared against the mobilization of troops which could be brought about by the recent friction."

Guatemala told Costa Rica that the Guatemalan offer had been declined because it had official notice that the good offices of the United States, accepted in 1918, were still pending.

Salvadoran note uninteresting.

The Minister for Foreign Affairs is vexed at Costa Rica's divulging these essentially confidential documents and tells me that as the proposition of American mediation was never taken up formally with the Department, the Nicaraguan Minister in Washington will be instructed to consult with the Department relative to the "conveniencia" of manifesting formally the satisfaction with which Nicaragua would see a continuance of the good offices of the United States, and then, if there is no objection, formally to express this principle. The Minister for Foreign Affairs takes this course consequent upon the President's desire for American mediation expressed to me (really meant our intervening in general; see my telegrams 86, 89, 97⁸⁰) and in view of the Department's helpfulness in the case, hoping that it may be considered a continuance of the action of 1918. The President is particularly desirous to avoid acceptance of any mediation except that of the United States and does not want to be obliged to pay further attention to Ubico's offer, which he feels chary about.

Repeated to Tegucigalpa.

CASTLEMAN

715.1715/623 : Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, September 19, 1937—8 p. m.

[Received September 20—11:45 a. m.]

67. The Legation has learned that the President has suggested to Colonel Brooks that American "fighting pilots" be immediately employed. So far as is known no action taken yet in the matter.

ERWIN

⁸⁰ Telegrams No. 86, August 28, 7 a. m., p. 57; No. 89, August 31, 4 p. m., p. 61; and No. 97, September 6, 9 p. m., p. 67.

715.1715/623 : Telegram

The Secretary of State to the Minister in Honduras (Erwin)

WASHINGTON, September 22, 1937—6 p. m.

29. Legation's 67, September 19, 8 p. m. The Department desires that you immediately and informally approach the Foreign Minister and, referring to the information which has come to you, convey to him the Department's concern over the possibility of citizens of the United States being employed or becoming involved in any military operations within or without the borders of Honduras. In this connection you should call to the Minister's attention the assurances given the Legation by the President and the former Minister for Foreign Affairs to the effect that no American aviators would be so employed.

The Department desires to be kept fully advised as to Honduran attitude.

HULL

715.1715/664

The Minister in Honduras (Erwin) to the Secretary of State

No. 27

TEGUCIGALPA, September 27, 1937.

[Received October 4.]

SIR: I have the honor to refer to the Legation's telegram No. 67, September 19, 8 p. m., 1937, and to the Department's telegram No. 29, September 22, 6 p. m., 1937, relative to the possible employment of American pilots by the Honduran Government to fly its planes, and to report that I was today informed by "Colonel" Brooks that to date he had not taken any steps towards obtaining these new men.

With regard to the same question, the Minister for Foreign Affairs told me that he knew nothing whatsoever concerning the matter, such things being handled directly by the President. In accordance with the Department's instructions, it was pointed out to him that the Legation could not but look with grave concern upon American pilots being used in the event of hostilities. The Foreign Minister then said that he did not know what instructions the President had given his son, Mr. Gonzalo Carías C., who has returned to New York City as Honduran Consul General and who may possibly be endeavoring to employ Americans. In this connection, when Mr. Carías returned to this country some weeks ago he brought with him one American mechanic, but no pilots.

There is an unconfirmed rumor in the town that possibly Mexican pilots will be employed, but, to date, the Air Force maintains its *status quo*, namely, with approximately ten student Honduran pilots under the direction of "Colonel" Brooks and the Inspector of Aviation, Mr. Luís Fiallos, who is a pilot trained in the United States.

Respectfully yours,

JOHN D. ERWIN

715.1715/661a : Telegram

*The Secretary of State to the Minister in Honduras (Erwin)*²¹

WASHINGTON, October 1, 1937—7 p. m.

30. Yesterday the boundary dispute was discussed separately with the Honduran Chargé and the Nicaraguan Minister at some length along the following lines:

That the United States, while it is not extending its good offices at this moment, nevertheless, as a friend of Honduras, is desirous of assisting in every way agreeable to the two Republics to bring about a satisfactory termination of this long standing controversy which has given rise in the past to bitterness, recriminations and even military preparations on the part of both countries;

That in view of the solemn pledges for the maintenance of peace, entered into at the recent conference at Buenos Aires, it would be highly unfortunate if the dispute could not be amicably settled;

That this Government firmly believes that both Honduras and Nicaragua are desirous of arriving at a mutually satisfactory understanding that would remove forever the source of irritation;

That if the two countries can sit down at a common council table and settle their differences between themselves, they will have given an example to the world of statesmanship and of the ability of countries to settle their differences peacefully;

That it is hoped, therefore, that the two countries will take an early opportunity to confer with one another in an endeavor to find, first of all, a mutually agreeable basis for procedure and, secondly, by following that procedure, a final settlement of the dispute; and

That this Government, and it is presumed other American governments, would of course wish to consider earnestly any joint request for their friendly good offices that the Governments of Nicaragua and Honduras might wish to make as a result of their consultation with one another.

Finally the opportunity was taken to point out to the Minister that should this dispute become more acute, and no pacific solution appear to be envisaged, it would then seem fitting and in accordance with the spirit of the pledges entered into at Buenos Aires that the countries of this hemisphere consult with one another in order to determine what proposals for peaceful settlement they might care to offer.

²¹ The same, *mutatis mutandis*, October 1, 7 p. m., to the Chargé in Nicaragua as telegram No. 62.

The Honduran Chargé brought out the point that Honduras had accepted the protocol of 1930,³² but that it had been rejected by the Nicaraguan Congress. In the ensuing discussion it was intimated that possibly this protocol could serve as one of the bases for the discussions between the two governments, an effort being made to find some common meeting ground on those aspects of the protocol which were found unsatisfactory by the Nicaraguan Congress.

You are requested to seek an immediate audience with the Minister for Foreign Affairs and to reiterate to him the views of the Department as expressed to the representatives of his country here. If the discussion provides a suitable opening you may mention that the protocol of 1930 might be one of the starting points for the direct discussions between the two countries.

Please inform the Department by telegram of the Minister's views, when formulated.

A similar telegram is being sent to Managua.

HULL

715.1715/662 : Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, October 4, 1937—noon.

[Received 4:25 p. m.]

70. Department's telegram No. 30, October 1, 7 p. m. The Minister for Foreign Affairs informed me this morning that the Honduran Government would gladly agree to reopening the question of the protocol of 1931. He added that such a reopening could only be considered with regard to the demarcation of the boundary, pointing out that article 1 of the protocol dealt with the award of 1900 [1906] and that the Honduran Government would not discuss this question, as it considered the award definitive and the question closed.

It was gathered that there was little possibility of the two Governments getting together without the good offices of some other country. The feeling seemed to be that Nicaragua originated the dispute and the first conciliative move should come from there.

The Foreign Minister said that the Honduran Government would prefer to have the United States as sole mediator, but added that if

³² Signed at Managua January 21, 1931; see *Foreign Relations*, 1930, vol. I, p. 377, footnote 2; *ibid.*, 1931, vol. I, pp. 792 ff. For text, see Nicaragua, Ministerio de Relaciones Exteriores, *Exposición sobre la cuestión de límites entre Nicaragua y Honduras y protocolo de arreglo suscrito el 21 de enero de 1931* (Managua, Imprenta Nacional, 1931), pp. 19-23.

one or two American Republics should offer to mediate, [a?] Central American country would be acceptable.

ERWIN

715.1715/670 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, October 5, 1937—10 p. m.

[Received October 6—1:20 a. m.]

130. Department's 62, October 1, 7 p. m.³³ Foreign Minister states Nicaragua appreciates communication and continues in the same good will toward seeking a peaceful solution, but unfortunately the conduct of the Honduran Government toward certain Nicaraguan Consuls and toward the persons and goods of Nicaraguans resident in Honduras renders impossible any direct conference between the two countries either by themselves to seek out peaceful solutions or jointly to solicit the good offices of other countries, and, for this reason, Nicaragua considers herself the desirability of expressing by herself the satisfaction with which she would see the United States, alone or associated with other countries, extend her good offices for the solution of the case.

My comment: The Nicaraguan Government has at last abandoned its former attitude of regarding the case more as a vexation and on account of the continued reports of the persecution of Nicaraguans in Honduras is now genuinely angry. I consider the situation here as now more serious than at any time during the affair.

Repeated to Tegucigalpa.

CASTLEMAN

715.1715/662 : Telegram

*The Secretary of State to the Minister in Honduras (Erwin)*³⁴

WASHINGTON, October 6, 1937, 7 p. m.

31. Department's No. 30 of October 1, 7 p. m. In reply to the friendly and informal suggestions proffered by this Government, the Government of Honduras has replied that it would be willing to consider reaching an agreement with Nicaragua for the purpose of soliciting the good offices of one or more American states in order to promote a pacific and definitive settlement of the boundary dispute. The Government of Honduras has further indicated that because of the past

³³ See footnote 31, p. 76.

³⁴ The same, *mutatis mutandis*, October 6, 7 p. m. to the Chargé in Nicaragua as telegram No. 64.

familiarity of the Government of the United States with this pending boundary controversy, it would prefer that the good offices in question be undertaken by the United States.

The Government of Nicaragua has stated in reply to the suggestion proffered by the United States that the recent conduct of the Honduran Government "towards certain Nicaraguan Consuls and towards the persons and goods of Nicaraguans resident in Honduras" would make it impossible for Nicaragua to attempt through direct negotiations with Honduras either to seek peaceful solutions or jointly to solicit the good offices of other countries. Nicaragua is considering the desirability of expressing unilaterally the satisfaction with which she would see the United States, either alone or associated with other powers, extend good offices for the solution of the dispute.

In view of the willingness thus expressed by both parties to the controversy to accept the good offices of one or more of the American states to facilitate the pacific solution of the controversy, the Government of the United States suggests for the consideration of the Governments of Honduras and Nicaragua the desirability of accepting the good offices of three American powers, one to be selected by common accord from the republics of South America, one by common accord from the republics of Central America and, should this procedure be acceptable to the two Governments concerned, the Government of the United States will gladly serve as the third of the powers to tender their good offices.

You are instructed to communicate orally the foregoing to the Minister of Foreign Affairs at the earliest opportunity and to state that should this suggestion meet with the approval of his Government, this Government would propose as the most expeditious manner of obtaining the friendly services of the three American states above referred to, that the Government of Honduras indicate to the Government of the United States three governments of South America and three governments of Central America whose good offices it would be prepared to accept, indicating the suggestions in the order of preference. Upon receipt of the opinion so expressed by the Governments of Honduras and Nicaragua and should it be possible in the panels submitted to select two Governments acceptable to both parties, the Government of the United States would then gladly inquire of the Government of South America and of the Government of Central America so selected whether they would be disposed to join with the United States in the tender of good offices for the purposes in mind.

In conclusion you should make it clear that, while the Government of the United States, because of its interest in the maintenance of

peace in the world at large and in particular in the Western Hemisphere, would be happy to be of service to the two Governments in suggesting a pacific settlement of the present controversy, it would not care to undertake these friendly services alone. It would prefer to be associated with at least two other American republics in this endeavor. As was made clear by the pacts adopted at the Conference at Buenos Aires, any threat to the maintenance of peace on the American Continent is a matter of concern to all of the American republics, and this Government strongly believes that it would be preferable from the standpoint of inter-American relationships that in the present instance the task of assuring a peaceful and satisfactory settlement of this dispute be entrusted to at least three American republics and not to one alone.

Please telegraph the Department as soon as possible of the reply of the Government to which you are accredited.

HULL

715.1715/678 : Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, October 7, 1937—4 p. m.

[Received 8:07 p. m.]

74. In compliance with Department's telegram No. 31, October 6, 7 p. m., plan was presented to the Foreign Minister today. He expressed appreciation for willingness of the United States to continue its attitude of helpfulness and said that he would take the plan up with the President. The Foreign Minister made it clear, and re-emphasized it several times, that under no circumstances would his Government agree to any new plan for settlement which in any event involves the validity of the award of the Mexican Minister to Spain. [*sic*]

He said public sentiment in Honduras would never accept any weakening in the Government's attitude that the *Laudo* ^{34a} was definitive and final. He pointed out that it must be clearly understood that mediation of even most friendly republics, such as United States, would not be sought except with the clear understanding that Nicaragua agree to start discussion on basis of Nicaragua's acceptance of article I of protocol of 1931.³⁵

ERWIN

^{34a} Award of December 23, 1906; *British and Foreign State Papers*, vol. c, p. 1096.

³⁵ *Foreign Relations*, 1931, vol. I, p. 805.

715.1715/684 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, October 8, 1937—noon.

[Received 4:24 p. m.]

134. Referring to Department's telegram No. 64, October 6, 7 p. m.,⁸⁶ Minister for Foreign Affairs desires me to communicate the following to the Department:

"Nicaragua accepts with the greatest satisfaction the friendly intervention of the United States. The lists requested by the Department of State are formed, on the part of Nicaragua, in the following manner:

Central America: first Guatemala, second Costa Rica, third Salvador.

South America: first Chile, second Ecuador, third Panama.

The Government of Nicaragua again repeats its deepest gratitude to the Government of the United States".

Repeated to Tegucigalpa.

CASTLEMAN

715.1715/685 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, October 8, 1937—5 p. m.

[Received 8:03 p. m.]

135. Referring to my[?] telegram No. 74, October 7, 4 p. m. from Tegucigalpa, when I discussed with the Nicaraguan Minister of Foreign Affairs the content of the Department's telegram No. 62, October 1, 7 p. m.,⁸⁷ I mentioned the protocol of 1931 as a possible point of departure. No conclusion was formulated by the Minister because matters took a different trend. However, his initial opinion was that the protocol in its original form, particularly the substance of the first clause which is insisted upon by the Honduran Minister for Foreign Affairs, is not acceptable to Nicaragua. He seemed to think that the protocol as modified by Congress,⁸⁸ which appears in the "memoria" of the Foreign Minister for the year 1931, might be acceptable, but the Department will note that this instrument denies the validity of the *Laudo*, and is therefore contrary to the expressed basic requirement of Honduras.

⁸⁶ See footnote 34, p. 78.

⁸⁷ See footnote 31, p. 76.

⁸⁸ *Foreign Relations*, 1931, vol. 1, p. 805.

Will the Department please instruct whether there is any suggestion toward conciliating the two viewpoints or any other related phase which I should take up when, as I believe is prudent, I ask for a formal expression of the Minister's views.

Repeated to Tegucigalpa.

CASTLEMAN

715.1715/678 : Telegram

The Secretary of State to the Minister in Honduras (Erwin)

WASHINGTON, October 8, 1937—6 p. m.

32. Your 74, October 7, 4 p. m. Please say to the Minister for Foreign Affairs that the Honduran position as regards the basis of a definitive settlement of the territorial dispute has been carefully noted. This Government believes, however, that the first and most urgent objective of the suggested utilization of good offices is the proposal of measures which may relieve the present tension in the relations of Nicaragua and Honduras and thereafter the suggestion of bases for a definitive settlement of the fundamental issue. At this second stage it would be appropriate for Honduras to set forth its position as regards the basis of a definitive settlement of the controversy.

HULL

715.1715/695 : Telegram

The Honduran Minister for Foreign Affairs (Lozano H.) to the Secretary of State

[Translation]

TEGUCIGALPA, October 9, 1937—3:05 p. m.

[Received October 11—5 a. m.]

Because of the lamentable boundary incident that has arisen between this country and Nicaragua, which is of continental interest, I am authorized by the Constitutional President of the Republic to make the following spontaneous declarations in the name of the Government of Honduras. First: Honduras reiterates her conviction that it is the duty of the American nations to preserve peace on the continent. Second: Honduras points with pride to the deep respect that her international obligations are given by her; respect shown by honoring the obligations undertaken in the treaties she has signed. Third: Honduras makes plain her devotion to the civilized method of arbitration for settling controversies between nations. Fourth: as a consequence of her devotion to the institution of arbitration, Honduras declares the sanctity of arbitral decisions. Fifth:

Honduras will always be disposed to give the best reception to any suggestion that may be made to her for friendly mediation on matters of an international character, provided that respect for and obedience to arbitral awards already made is included in the suggestion. And sixth: Honduras has full confidence that as she has understood how to respect the rights of others her own rights will also be respected.

I avail myself [etc.]

JULIO LOZANO H.

715.1715/693: Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, October 9, 1937—noon.

[Received 3:35 p. m.]

76. The Legation has received text of telegram sent to the Department today by the Foreign Minister here who states that the same message has been forwarded to all Ministries of Foreign Affairs on the American Continent.

ERWIN

715.1715/692: Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, October 9, 1937—4 p. m.

[Received 8:55 p. m.]

77. Department's telegram No. 32, October 8, 6 p. m. Called on Foreign Minister at 2:30 this afternoon to report substance of Department's instructions. Was unable to make earlier engagement with Foreign Office because of Cabinet meeting this morning. The Foreign Minister, after reiterating Honduras' position, as stated in my telegram No. 74, October 7, 4 p. m., expressed renewed appreciation of efforts of the United States to bring settlement. The Foreign Minister said however that his Government does not consider it advisable to offer a panel of sister republics for the purpose indicated until assurances are given in writing that points proscribed in his telegram of today will not be considered.

ERWIN

715.1715/685: Telegram

The Secretary of State to the Chargé in Nicaragua (Castleman)

WASHINGTON, October 11, 1937—7 p. m.

66. Your 135, October 8, 5 p. m. The Department's purpose in mentioning the Protocol of 1930 in the communication which you

were directed to make to the Nicaraguan Government in telegraphic instruction no. 62 of October 1, 7 p. m.,⁴⁰ was not to suggest that the protocol should be the basis of a definitive settlement of the controversy.

The protocol was indicated as one of several possible starting points for the discussions preparatory to a definitive settlement of the boundary controversy.

This Government believes that the immediate and most urgent objective of the suggested utilization of good offices is the proposal of measures which may allay the present tension in the relations of Nicaragua and Honduras, and thereafter the examination of bases for a permanent settlement of the fundamental issue. At this second stage it would be appropriate for Nicaragua to set forth its position as regards the bases for a definitive settlement of the controversy. In advance of this stage of the discussions the Department cannot take any position with respect to the bases for a solution of the fundamental problem.

The foregoing is for your guidance in any conversations you may have with the Nicaraguan Government.

HULL

715.1715/693 : Telegram

The Secretary of State to the Minister in Honduras (Erwin)

WASHINGTON, October 12, 1937—4 p. m.

33. Your telegram no. 76, October 9, noon. The Department has received the telegram from the Honduran Foreign Minister referred to in your telegram cited above and in reply thereto you are instructed to make the following oral representations to the Minister of Foreign Affairs:

"Upon instructions of my Government I have the honor to acknowledge the receipt by the Secretary of State of Your Excellency's telegram of October 9 and to state that my Government has noted with gratification the devotion of the Honduran Government to the ideals of continental peace and pacific settlement of controversies between nations. It is hardly necessary to state that this Government fully shares Honduras' views as to the desirability of the pacific settlement of disputes and the sanctity of arbitral decisions.

It is noted that Honduras will always be disposed to give the best reception to any suggestion that may be made to her for friendly mediation on matters of an international character provided that respect for and obedience to arbitral awards already made is included in this suggestion.

In this connection, my Government desires to express the view that in the friendly preliminary discussions which are contemplated, the question of the sanctity of arbitral awards does not arise.

⁴⁰ See footnote 31, p. 76.

As has previously been indicated to Your Excellency, my Government believes that the immediate and most urgent objective of the suggested utilization of good offices is the proposal of measures which may allay the present tension in the relations of Nicaragua and Honduras, and thereafter the examination of bases for a permanent settlement of the fundamental issue.

My Government believes that on consideration the Honduran Government will agree that, in advance of the preliminary discussions it would not be desirable for either of the parties to place any conditions on their acceptance of good offices nor seek to insist upon prior agreement upon the bases of settlement of the fundamental issue. The basic issue cannot be satisfactorily discussed until the present obstructive tension has been cleared away.

Acceptance of the good offices suggested and entry into the necessary preliminary discussions designed to remove the present friction can in no way be construed as impairing the position or rights of either party in later discussions directed towards a permanent settlement of the basic issue.

In view of the foregoing considerations the Government of the United States hopes that Your Excellency's Government will find itself in a position to proceed at an early date to name the panel of American powers from which two will be selected to lend their good offices in association with the Government of the United States."

HULL

715.1715/708 : Telegram

The Nicaraguan Minister for Foreign Affairs (Cordero Reyes) to the Secretary of State

[Translation]

MANAGUA, October 14 [13?], 1937.

[Received October 14—1:50 p. m.]

Referring to the declarations of the Government of Honduras of the 9th of this October in connection with the incident that has arisen between Nicaragua and that country as a sequel to the old boundary question, I have been instructed by the President of the Republic to declare the following: First. Nicaragua's traditional policy has been and is that of the most loyal adherence to peace, as is proved not only by her modest and unconditional support of the elaboration of anti-war law, but, chiefly, by her conduct, during the present friction with Honduras, firmly oriented, even at the cost of great sacrifices, towards the prevention of the outbreak of war between two peoples so closely bound together by their history and the solidarity of a common destiny. Second. Nicaragua's policy is likewise traditionally respectful of the principle of the sanctity of treaties. Third. Nicaragua considers that the disapproval by her public authorities of the arbitral award by the King of Spain that was handed down on the

question of the boundary with Honduras is not incompatible with the preceding declaration as the said award was prepared and delivered in substantial violation of the treaty that defined the obligatory relation between the parties, and it may even be said that the said award is not based on the arbitration agreement, as the life of the latter had already expired. Fourth. Nicaragua has always been disposed to submit her allegations as to the nullity of the award to a new arbitration, whereby she demonstrates her sincere devotion to this civilized means of settlement of disputes. Fifth. Nicaragua likewise has been and is disposed to secure the definitive settlement of the question pending with Honduras by any non-military method, on the basis of mutual concessions. Sixth. In accordance with the foregoing declarations, which she considers sufficiently broad, Nicaragua declares that she would accept with satisfaction the friendly intervention of third governments that might be suggested to her for the purposes of the preceding paragraph.

Please accept [etc.]

M. CORDERO REYES

715.1715/708 : Telegram

The Secretary of State to the Chargé in Nicaragua (Castleman)

WASHINGTON, October 16, 1937—4 p. m.

68. The Department has received a telegram dated October 13 from the Minister for Foreign Affairs with regard to the boundary dispute, the text of which is presumably available to you. In reply thereto you are instructed to make the following oral statement to the Minister for Foreign Affairs:

"Pursuant to instructions of my Government, I have the honor to acknowledge the receipt by the Secretary of State of Your Excellency's telegram of October 13. My Government is deeply gratified with Your Excellency's declaration of Nicaragua's policy of adherence to peace and respect for treaties and your Government's firm intention to prevent the outbreak of hostilities between two peoples so closely linked by historical ties and common aims and interests. My Government has received with real pleasure the confirmation of Nicaragua's acceptance of the friendly tender of good offices of third governments in connection with pending questions with Honduras.

Careful note has been taken of the Nicaraguan Government's attitude toward statements with regard to the validity of the arbitral award by the King of Spain as handed down on the question of the boundary of Honduras. This Government believes, however, that the question of the validity of the award does not arise in the contemplated preliminary discussions which have as their object the proposal of measures designed to allay the existing tension in the relations of the two countries, thereafter proceeding to the examination of the bases of a permanent settlement of the fundamental issue.

My Government believes that the Nicaraguan Government will agree that in advance of the preliminary discussions it will not be desirable for either of the parties to seek to insist upon consideration of their views as to the bases of a settlement of the fundamental issue. It would seem that the basic issue cannot be satisfactorily discussed until the present obstructive tension has been cleared away. The suggested procedure can in no way be construed as impairing the position or rights of either party in later discussions directed toward a permanent settlement of the basic issue."

HULL

715.1715/730a : Telegram

The Secretary of State to the Minister in Honduras (Erwin)

WASHINGTON, October 16, 1937—4 p. m.

34. I asked the Chargé d'Affaires of Honduras to call this morning and expressed to him the friendly concern with which this Government viewed the delay on the part of the Government of Honduras in suggesting to this Government the names of the other American republics which it would desire to see associated in the tender of good offices as indicated in my earlier message.

I asked the Chargé d'Affaires to transmit by cable this expression of concern to his Government and to emphasize the following points:

1. That in view of the increasing agitation in both republics and in view of the reports received of alleged military preparations both in Honduras and in Nicaragua, it would seem to be urgently necessary that this tension be relieved and that it would seem that the best way of accomplishing this result was for the two governments to permit other American states in whom they jointly had confidence to extend their good offices for the purpose of seeking to find a possible settlement of these difficulties;

2. That when the representatives of the countries extending their good offices met, the Government of Honduras could then with complete liberty of action and with every right make known its position with regard to the arbitral award and indicate its unwillingness to accept any proposed solution other than one based upon the recognition of the validity of the award. It would then devolve upon the nations extending their good offices to try and find the ways and means of devising the basis for a practical and pacific solution acceptable both to Honduras and to Nicaragua.

In conclusion I requested the Chargé d'Affaires to inform his Government that the Government of the United States was receiving increasingly serious reports of preparations being made for possible hostilities both in Honduras and Nicaragua; that it hoped that Honduras might, consequently, in the immediate future suggest the names of other American republics to join in the extension of good offices, but that if Honduras, for some reason of which this Government is unaware, refrained from making such suggestions and of thus indicating its willingness to permit of the extension of the good offices

which it has officially stated it was willing to accept, the United States Government, because of the declaration jointly made by every American republic at the Conference at Buenos Aires that a threat to the peace of any republic was a matter of legitimate concern to all of the other American republics, would feel itself compelled, because of its desire to assure the maintenance of peace on the American continent, to suggest to all of the other American republics joint consultation for the purpose of determining what friendly solution might be suggested by all of the republics for the pacific settlement of this controversy.

The Chargé d'Affaires assured me that he would cable his Government immediately in the above sense. He expressed his personal regret for the delay in the receipt by this Government of the suggestions requested from the Government of Honduras.

The Department desires you to reiterate the points above enumerated to the Minister for Foreign Affairs at the first possible opportunity and to keep the Department closely advised by telegram of all developments and of any reply which the Minister may make.

HULL

715.1715/726 : Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, October 16, 1937—5 p. m.

[Received 8:46 p. m.]

88. My 86, October 16, 10 a. m.⁴¹ The Foreign Minister in person today handed me a note in reply to Department's telegram Number 33, October 12, 4 p. m. in which the preamble notes the proposal made as to relieving the present tension between the two countries and "from there on, an examination of the basis for a permanent settlement of the fundamental problem".

It continues "My Government deems that it is convenient to its interests to make clear in writing its resolution in the matter under consideration" and states in the following words that

"First: With the understanding that the immediate and most urgent objective of the suggestion of utilization of the good offices of the three American nations is the proposal of means which might soften the present tension in the relations between Honduras and Nicaragua and that the basic matter cannot be discussed satisfactorily until present obstructive tension has disappeared, my Government accepts the suggestion of good offices on preliminary discussions to arrive at proposing such means, and with that idea submits, on an attached sheet, for the consideration of the American Government, the panels of the American nations of which two are to be chosen,

⁴¹ Not printed.

to offer their good offices in association with the Government of the United States.

Second: Upon Honduras' accepting the suggestion of good offices of the three American nations and the act of arriving at the necessary preliminary discussions to remove the present friction between Honduras and Nicaragua, my Government proceeds on the basis of the textual declaration of the American Government that 'in no way, this acceptance and that act, should be interpreted as jeopardizing the position and rights of the parties in the subsequent discussions directed towards a permanent arrangement of the basic problem'".

The panel of nations as chosen is as follows: Central American Republics: (1) Costa Rica (2) El Salvador (3) Guatemala; South American Republics: (1) Argentine (2) Colombia (3) Uruguay.

The Foreign Minister again expressed his appreciation of the helpful interest of the United States.

ERWIN

715.1715/740a : Telegram

*The Secretary of State to the Minister in Honduras (Erwin)*⁴²

WASHINGTON, October 18, 1937—7 p. m.

36. Your 88, October 16, 5 p. m. Please seek an early interview with the Minister for Foreign Affairs and make the following oral statement to him:

"This Government is deeply gratified at the decision of the Honduran Government to accept the good offices of third countries in connection with pending questions with Nicaragua.

"Nicaragua has likewise submitted a panel of three governments of South America and three governments of Central America whose good offices it would be prepared to accept.

"This Government inquires whether the Government of Costa Rica would be acceptable to the Government of Honduras as regards the selection of a Central American government. Upon confirmation of the acceptability of the good offices of Costa Rica to both Honduras and Nicaragua, this Government is prepared promptly to inquire of the Costa Rica Government whether it is disposed to join in the contemplated discussions.

"As regards the selection of a South American country no basis of agreement is found in the panels submitted by the two governments. Accordingly this Government ventures to suggest that agreement be given to the selection of Venezuela, which was named by neither government in the panels submitted. The same suggestion is being communicated to the Government of Nicaragua."

Please cable promptly the results of your interview with the Minister for Foreign Affairs.

HULL

⁴² The same, *mutatis mutandis*, October 18, 7 p. m., to the Chargé in Nicaragua, as telegram No. 69.

715.1715/740 : Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, October 19, 1937—11 a. m.

[Received 1:41 p. m.]

91. Referring to Department's telegram Number 36, October 18, 7 p. m., the Minister for Foreign Affairs stated this morning that the Honduran Government accepts with the greatest pleasure both Costa Rica and Venezuela.

He added that he believed that as soon as the acceptance of both countries, the good offices of the three American Republics could be made public, the present tension would be immediately removed and that he hoped that this publicity could be released as quickly as possible.

ERWIN

715.1715/740c : Telegram

*The Secretary of State to the Minister in Costa Rica (Hornibrook)*⁴³

WASHINGTON, October 19, 1937—8 p. m.

35. You are requested to obtain at the earliest moment an interview with the Minister of Foreign Affairs and make to him the following oral communication:

As the Government of Costa Rica is aware, there has existed a long-standing controversy between the Governments of Nicaragua and of Honduras as to the location of their common boundary. An Arbitral award was rendered by the King of Spain in 1906, but full effect has not been given to it. Various and unsuccessful efforts have been made to negotiate a final settlement of the controversy. Recently, unfortunately, the controversy has become more acute and various incidents have occurred tending to create tension between the two countries. The Government of the United States has regretfully come to the conclusion that the dispute has now reached such proportions as to involve the actual danger of possible hostilities.

The Governments of Honduras and Nicaragua⁴⁴ have today informed this Government that they would welcome the tender of good offices jointly on the part of Venezuela, Costa Rica, and the United States for the purpose, first, of removing the present tension in the relation of the two republics and thereafter for the purpose of suggesting the means which might be adopted by Honduras and Nicaragua towards arriving at a definitive settlement of the fundamental territorial question.

⁴³ The same, *mutatis mutandis*, October 19, 8 p. m., to the Minister in Venezuela, as telegram No. 57.

⁴⁴ The acceptance of Nicaragua was reported to the Department by the Legation at Managua in a telephone conversation (715.1715/793).

The Government of the United States has advised the Governments of Honduras and Nicaragua that it would be happy to inform the Governments of Venezuela and of Costa Rica of this disposition on the part of Honduras and Nicaragua to welcome the good offices of Venezuela, Costa Rica and the United States. In view of the spirit of the conventions and resolutions unanimously adopted by the American republics at the recent Conference at Buenos Aires for the maintenance of peace and in view of the unfailing devotion of the Government of Costa Rica to that high ideal, the Government of the United States hopes that the Government of Costa Rica may be willing to take part in this common effort for the pacific solution of the unfortunate dispute which has arisen between Honduras and Nicaragua.

Should the Government of Costa Rica feel itself disposed to proffer its good offices, jointly with the Government of Venezuela and the United States, it is suggested that the text of the tender of good offices may be conveniently agreed upon by the Ministers of Costa Rica and Venezuela and the Department of State in Washington and that, once such text is determined upon, the tender of good offices might be made directly but simultaneously to Honduras and Nicaragua by the three Governments above mentioned.

The steps to be taken in carrying out in the most efficient manner possible the tender of good offices may perhaps be discussed in the same manner. It would seem probable that representatives of the three Governments tendering their good offices might well visit the two countries involved in the controversy in order that they may on the spot suggest practical means for the alleviation of the existing situation.

The Government of the United States likewise suggests that should the Governments of Venezuela and Costa Rica agree upon the tender of good offices, jointly with the United States, the three Governments might immediately thereafter advise all of the other American republics of the assistance they intend to offer with the hope of facilitating a pacific solution of the dispute between Honduras and Nicaragua.

Please telegraph at the earliest possible moment the result of your interview with the Minister of Foreign Affairs.

HULL

715.1715/741 : Telegram

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

SAN JOSÉ, October 20, 1937—noon.

[Received 2:05 p. m.]

67. Department's telegram No. 35, October 19, 8 p. m. After a consultation with the President, Minister of Foreign Affairs accepts without reservation proposals made by the Department and agrees to so advise Costa Rican Minister in Washington by cable this morning.

HORNIBROOK

715.1715/744 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, October 20, 1937—4 p. m.

[Received 8:56 p. m.]

100. Department's telegram No. 57, October 19, 8 p. m.⁴⁵ The Minister for Foreign Affairs after consultation with the President stated that the Venezuelan Government would be glad to tender its good offices as suggested and expressed his cordial appreciation for this opportunity to cooperate.

NICHOLSON

715.1715/751c : Telegram

*The Acting Secretary of State to the Honduran Minister for Foreign Affairs (Lozano H.)*⁴⁶

WASHINGTON, October 21, 1937.

The Government of the United States in association with the Governments of Costa Rica and Venezuela is glad to tender its good offices to the Governments of Honduras and Nicaragua with the hope that this friendly service may facilitate a pacific solution of the boundary controversy which has unfortunately arisen between the two Republics.

Should the Republics of Honduras and Nicaragua be disposed to accept this tender of good offices, the three Governments will be happy to offer suggestions for the alleviation of the present tension in the relations between the Republics of Honduras and Nicaragua, and, once that result is accomplished, to make suggestions as to means, equally acceptable to both parties, which might be adopted by Honduras and Nicaragua with the object of reaching a definitive settlement of the controversy.

SUMNER WELLES

715.1715/751a : Circular telegram

The Acting Secretary of State to All American Diplomatic Missions in the American Republics Except Costa Rica, Honduras, Nicaragua, and Venezuela

WASHINGTON, October 21, 1937.

You are requested to seek an immediate interview with the Minister for Foreign Affairs and to hand him a note incorporating the following statement:

⁴⁵ See footnote 43, p. 90.

⁴⁶ The same, *mutatis mutandis*, October 21, to the Nicaraguan Minister for Foreign Affairs, Cordero Reyes.

"The Government of the United States in association with the Governments of Costa Rica and Venezuela has today tendered its good offices to the Governments of Honduras and Nicaragua with a view to facilitating a pacific solution of the boundary controversy which has regrettably arisen between these two American nations.

The Declaration of Principles of Inter-American Solidarity and Cooperation unanimously adopted by the American Republics at the Conference for the Maintenance of Peace held in Buenos Aires⁴⁷ declares that 'every act susceptible of disturbing the peace of America affects each and every one of them'. In accordance with the spirit of that declaration my Government is taking this immediate opportunity of advising the Government of Argentina (or the Government addressed) of the good offices which this Government jointly with the Governments of Costa Rica and Venezuela is extending to the Governments of Honduras and of Nicaragua and of its hope that these friendly services may assist in facilitating a peaceful settlement of the dispute which has arisen between these two Republics."

WELLES

715.1715/800 : Telegram

The Honduran Minister for Foreign Affairs (Lozano H.) to the Acting Secretary of State

[Translation]

TEGUCIGALPA, October 22, 1937—11 a. m.

[Received 2:46 p. m.]

I have the honor to acknowledge receipt of Your Excellency's message dated yesterday whereby the Government of the United States, together with the Governments of Costa Rica and Venezuela, takes pleasure in tendering its good offices to the Governments of Honduras and Nicaragua with the hope that this friendly step might facilitate a peaceful solution of the boundary controversy^{47a} which unfortunately has arisen between the two Republics, stating further that in case the two Republics of Honduras and Nicaragua should be prepared to accept this tender of good offices, the three Governments would be very glad to present suggestions to the end of relieving the present tension in the relations between the Republics of Honduras and Nicaragua and that, once such result were obtained, to offer suggestions on the means acceptable to both parties which could be adopted by Honduras and Nicaragua with the purpose of arriving at a defin-

⁴⁷ See Department of State Conference Series No. 33, pp. 18, 227.

^{47a} In a note of November 20, 1952, to the American Embassy at Tegucigalpa, the Honduran Ministry for Foreign Affairs explained that "the phrase boundary controversy was established by the Honduran Delegation before the Mediating Committee at San José, Costa Rica (meeting of November 16, 1937), and refers solely to the conflict between Honduras and Nicaragua which gave rise to the offer of good services by the American Government, and not to territorial rights of both Republics which are defined by the *Laudo* of the King of Spain issued on December 23, 1906." (023.1/11-2652)

itive settlement of the controversy. Being authorized by the constitutional President of the Republic, I am glad to inform Your Excellency that my Government accepts with pleasure the good offices of the Governments of the United States, Costa Rica and Venezuela, and I take the liberty of expressing to Your Excellency's enlightened Government, as well as to the enlightened Governments of Costa Rica and Venezuela, the profound gratitude of the Government of Honduras for this noble and friendly step.

Respectfully,

JULIO LOZANO H.

715.1715/797 : Telegram

The Nicaraguan Minister for Foreign Affairs (Cordero Reyes) to the Acting Secretary of State

[Translation]

MANAGUA, October 22, 1937.

[Received 2:33 p. m.]

I have the honor to refer to Your Excellency's message dated yesterday ⁴⁸ in which you were good enough to state to me that the Government of the United States, together with those of Venezuela and Costa Rica, were pleased to tender their good offices to the Governments of Nicaragua and Honduras, for the purpose of facilitating a peaceful solution of the controversy over boundaries which unfortunately has arisen between the two Republics and that, in the case of acceptance, the three Governments would be very glad to present suggestions for the purpose of relieving the present tension of the relations between this Republic and Honduras and on obtaining this result, to offer suggestions which could be adopted by the contending nations for the purpose of arriving at a definitive settlement of the controversy. In reply, I take pleasure in stating to Your Excellency that the Government of Nicaragua, faithful to its traditional policy of sincere devotion to peace, of which it has given eloquent examples in the course of the discussion regarding boundaries with Honduras, accepts with pleasure the good offices which the Government of the United States has been good enough to offer it, together with the Governments of Venezuela and that of Costa Rica, for the ends indicated in Your Excellency's telegram which I have the honor to answer. In expressing to Your Excellency's enlightened Government the profound gratitude of the Nicaraguan Government for its noble endeavors directed to the maintenance, for Nicaragua and Honduras, of the bless-

⁴⁸ See footnote 46, p. 92.

ings of peace which were on the point of being lost as well as to assuring on the continent the success of the promises of Buenos Aires, I beg Your Excellency to accept [etc.]

M. CORDERO REYES

715.1715/779c : Telegram

*The Secretary of State to the Minister in Venezuela (Nicholson)*⁴⁹

WASHINGTON, October 23, 1937—3 p. m.

59. Please inform the Minister for Foreign Affairs that President Roosevelt has designated Dr. Frank P. Corrigan⁵⁰ as his Special Representative to meet with the representatives of Venezuela and Costa Rica in the joint tender of good offices in the boundary dispute between Honduras and Nicaragua.

Following informal conversations with the diplomatic representatives of Venezuela and Costa Rica in Washington this Government has inquired of the Governments of Nicaragua and Honduras if it would be agreeable to them to name a representative to meet with the representatives of the three Governments associated in the tender of good offices in San José, Costa Rica, on about November 1st.

HULL

715.1715/779b : Telegram

*The Secretary of State to the Minister in Honduras (Erwin)*⁵¹

WASHINGTON, October 23, 1937—3 p. m.

38. Please inform the Minister for Foreign Affairs at the earliest opportunity that President Roosevelt has designated Dr. Frank P. Corrigan as his Special Representative to meet with the representatives of Venezuela and Costa Rica in the joint tender of good offices with a view to facilitating a pacific settlement of the boundary dispute between Honduras and Nicaragua.

You should further inform the Minister for Foreign Affairs that this Government has been requested by the Governments with which it is associated in the tender of good offices to inquire whether it would be agreeable to the Government of Honduras to designate a representative to meet with the representatives of the three countries

⁴⁹ The same, October 23, 3 p. m., to the Minister in Costa Rica as telegram No. 36.

⁵⁰ Dr. Corrigan, then at the Department of State, was the American Minister to Panama.

⁵¹ The same, *mutatis mutandis*, October 23, 3 p. m., to the Chargé in Nicaragua, as telegram No. 73.

and a representative of the Government of Nicaragua in San José, Costa Rica, on or about November 1. This Government will be glad to inform the Governments of Venezuela and Costa Rica of the name of the representative which may be designated by the Government of Honduras.

In the conversations which have been held with the diplomatic representatives of Venezuela and Costa Rica in Washington it was agreed that it would be highly desirable if the Governments of Nicaragua and Honduras would take all proper means to prevent any public statements of an inflammatory nature over the radio or through any other medium of publicity which might tend to make more difficult the task of the representatives of the countries tendering good offices. This Government would be glad to transmit to the Governments of Venezuela and Costa Rica the assurances which the Foreign Minister may care to give in that connection.

Please cable promptly the results of your interview.

HULL

715.1715/779 : Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, October 24, 1937—5 p. m.

[Received 9:30 p. m.]

151. Referring to Department's telegram No. 73, dated October 23, 3 p. m.,⁵² the Minister for Foreign Affairs informs me that Nicaragua accepts, and will take her place at San José on the date indicated, but very much desires to be able to send at least two delegates if there is no objection. Immediately Nicaragua is informed on this latter point, the names or name will be furnished.

The Minister for Foreign Affairs also informs me that his Government agrees with the proposition regarding the prevention of inflammatory publicity and will accordingly take measures so that the radio and press will handle only official communications or items of a doctrinary nature. Caricatures and similar matters which might be offensive will be suppressed. The circulation of broadsides, whether printed, typed or manuscript, will be prevented.

Supplementary commentary very important for consideration in conjunction with the above will be telegraphed today.

Repeated to Tegucigalpa.

CASTLEMAN

⁵² See footnote 51, p. 95.

715.1715/797b

*The Secretary of State to the Special Representative of the President
(Corrigan)*

WASHINGTON, October 25, 1937.

SIR: You have been designated by the President as his Special Representative with the rank of Envoy Extraordinary, to meet with representatives of the Governments of Venezuela and Costa Rica for the tender of good offices to the Governments of Honduras and Nicaragua with the object of facilitating a pacific solution of the controversy which has arisen between them over the definition of their common boundary.

It has been tentatively agreed that the representatives of the countries tendering good offices will meet with representatives of the Governments of Nicaragua and Honduras in San José, Costa Rica, on about November 1. You will therefore arrange to be in San José on that date or as soon thereafter as possible.

While it is obvious that during the conduct of your mission you will have to be guided in a large measure by the circumstances, you should endeavor at all times to keep the Department of State promptly informed of developments by telegraph and radiotelephone and you should only give your agreement to important measures which may be proposed for the accomplishment of the objectives of the tender of good offices after consultation with the Department.

In the tenders and acceptances of good offices the five Governments concerned have agreed that the preliminary discussions should be confined to the examination of measures for the alleviation of the present tension in the relations between the Republics of Honduras and Nicaragua and, once that obstructive tension has been removed, to discuss the means which might be adopted by the two countries with the object of reaching a definitive settlement of the fundamental territorial issue.

I. In the discussion of steps which might be taken to relieve the existing tension the representatives may wish to consider the desirability of agreement between the parties to the controversy on the following points:

(a) Prevention, by all lawful means at the command of both Governments, of public statements of an inflammatory nature over the radio or through any other medium of publicity;

(b) Protection of nationals of either country resident in the other by all government authorities;

(c) Withdrawal of all unusual detachments of troops at or near the border;

(d) Immediate suspension of further purchase of arms;

(e) Prohibition of flights by military planes over border areas;

(f) Cessation of the issuance of any maps, stamps, or other material to the public bearing upon the territorial dispute.

II. It is the belief of the Department that as soon as may be practicable after the meeting in San José, it would be desirable for the representatives of the three countries tendering their good offices to proceed, in the manner most agreeable to Honduras and Nicaragua, directly to the territory in dispute for the purpose of making such initial inspection and studies as may be necessary, and thereafter, by arrangement, to visit the capitals of the two countries for discussions with their governments.

It is possible that there may be a delay between the preliminary discussions and active examination of the possible bases for a solution of the fundamental issue and, in such event, it may not be practicable for the three governments to maintain their representatives in session in a nearby country. During this period it is possible that new incidents might occur in one or the other country which might impair or even nullify the subsequent negotiations. Accordingly this Government believes that the commission of good offices should constitute in a nearby country a headquarters with a permanent secretariat, the duty of which would be to follow all developments bearing on the controversy, to give study to measures for its solution and to observe the carrying out of measures which may have already been agreed upon. The Department believes that the representatives of the three governments should endeavor to obtain agreement of the two parties to the controversy that they will submit all communications bearing on the controversy to the secretariat of the commission of good offices and that they will facilitate all visits and investigations which the representatives or, in their stead, members of the secretariat, may decide should be made with respect to the controversy.

You will be assisted in the performance of your mission by Mr. William P. Cochran, Jr., Foreign Service Officer of the United States. Appropriate instructions have been issued to Mr. Cochran.

A separate instruction is being issued to you regarding the reimbursement of the expenses which will be incurred in connection with your mission.

Very truly yours,

CORDELL HULL

715.1715/784: Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, October 25, 1937—noon.

[Received 6:31 p. m.]

95. Referring to your telegram No. 38, October 23, 3 p. m. and my telegram No. 94, October 23, 6 p. m.⁵³ the Foreign Minister expresses

⁵³ Latter not printed.

gratification of Honduran Government at designation of Dr. Corrigan as Special Representative on behalf of United States Government. The Foreign Minister expressed high personal regard for Dr. Corrigan.

As to meeting place Foreign Minister expresses preference for Washington over San José for the following reasons: first, large colony of approximately 25,000 Nicaraguans residing in Costa Rica would possibly exercise a pro-Nicaraguan or disturbing influence; second, uncontrolled radio and press in Costa Rica and proximity to the two countries involved would probably agitate population of both Honduras and Nicaragua with almost daily unauthenticated reports of trend of negotiations and thus increase difficulties of responsible heads of Honduras and Nicaragua in quieting agitation pending settlement; third, all records of previous negotiations and discussions are more accessible in Washington to all parties concerned.

The Foreign Minister suggested as alternative in event there is good reason for Washington not being selected, that another country further removed than Costa Rica from internal politics of two disputants be selected.

The Foreign Minister will take up immediately with the President naming of Honduran representative, and, in this connection asks the privilege of naming as many as two representatives if Honduras finds this desirable.

The question of preventing inflammatory statements in Honduran press and radio is being taken up by the Foreign Minister with the President, so that assurances may be secured. ERWIN

715.1715/785 : Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, October 25, 1937—4 p. m.

[Received 6:52 p. m.]

96. My telegram No. 95, October 25, noon. A member of the staff has learned from the Foreign Office that the President agrees with the Foreign Minister that San José would not be satisfactory as a meeting place. ERWIN

715.1715/782 : Telegram

*The Secretary of State to the Chargé in Nicaragua (Castleman)*⁵⁴

WASHINGTON, October 26, 1937—7 p. m.

74. Your 154, October 24, 9 p. m.⁵⁵ Please advise the Minister of Foreign Affairs that the Governments of Costa Rica, Venezuela, and

⁵⁴ A similar telegram was sent on the same date to the Minister in Honduras as No. 39.

⁵⁵ Not printed.

the United States are in entire accord that both the Governments of Nicaragua and of Honduras should appoint as their representatives at the forthcoming negotiations as many delegates as they respectively consider desirable. For purposes of convenience, it is hoped that neither Government will appoint more than two or three delegates to represent it.

With regard to the meeting place for the first sessions, this Government feels sure that the Minister of Foreign Affairs will recognize that the selection of a capital adjacent to the territory in dispute is eminently desirable in order that the representatives of the governments tendering their good offices may visit the territory with facility and with dispatch, and may likewise from time to time visit the capitals of the two Republics involved in the controversy. You should make it clear that it is the opinion of this Government, as it is that of the Governments of Costa Rica and of Venezuela, that the negotiations resulting from the tender of good offices may be divided into two distinct stages, namely, the first for the purpose of suggesting measures to relieve the existing state of tension so that all danger of further friction may be removed, and the second, the period during which the governments tendering their good offices will offer suggestions for a means of finding a definitive solution of the controversy. This second stage of the negotiations may, of course, take place in some capital remote from the Republics of Central America, where a completely neutral atmosphere may be obtained and where the representatives of all of the countries taking part in the negotiations may meet without fear of pressure on public opinion from the press or from the radio. For that reason, this Government believes that San José is the most logical and the most convenient meeting place for the representatives of the five republics during the first stage of the negotiations, and would suggest that Caracas might well be a desirable and convenient capital to be selected for the second stage of the negotiations.

For the reasons above set forth, this Government earnestly hopes that the Government of Nicaragua will conclude that the first meeting should take place in San José on November 1st, as already tentatively suggested.

The Department desires that you discourage the Government of Nicaragua from continuing to urge Washington as the seat of the negotiations. For reasons of policy it is deemed undesirable that Central American controversies be brought to Washington for solution. This Government will gladly cooperate in every practicable manner in facilitating the pacific solution of controversies of this character, but desires to avoid the impression created in the past that Central American disputes are solved by the United States.

Please telegraph immediately the answer which may be made to you by the Minister of Foreign Affairs.

HULL

715.1715/802: Telegram

The Minister in Honduras (Erwin) to the Secretary of State

TEGUCIGALPA, October 27, 1937—5 p. m.

[Received 7:47 p. m.]

99. The Legation has just been informed by the Foreign Office that the Honduran Government accepts San José for a meeting place for discussions in the sense outlined in the Department's telegram 39, October 26, 7 p. m.⁵⁶ If the date of the meeting is definitely set as November 1, Dr. Lainez with possibly two secretaries will leave for Costa Rica on October 30.

The Foreign Office would appreciate knowing the exact date set for the meeting as soon as practicable.

ERWIN

715.1715/804: Telegram

The Chargé in Nicaragua (Castleman) to the Secretary of State

MANAGUA, October 27, 1937—7 p. m.

[Received 10:05 p. m.]

156. Department's telegram No. 74. President Somoza informs me that Nicaragua agrees on San José for the first stage of negotiations, reserving until later date its decision regarding the venue of the second stage. Will probably name two delegates, one a liberal and the other a conservative, each accompanied by a counselor who will not be a delegate. The President says that the delegation will be ready to start negotiations in San José November 1.

Repeated to Tegucigalpa.

CASTLEMAN

715.1715/867a: Telegram

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

WASHINGTON, November 2, 1937—noon.

40. For Dr. Corrigan from the Acting Secretary. I suggest that you consult with your Venezuelan colleague and take such action as he and you may deem appropriate at the opening session of the

⁵⁶ See footnote 54, p. 99.

Conference in arranging for the selection of the Minister for Foreign Affairs of Costa Rica, in his capacity as the delegate of that Government in the negotiations, as Chairman of the Conference. You may consider it appropriate that a motion to this effect be made jointly by yourself and the delegate of Venezuela.

Please keep the Department advised by telegram of all developments of importance which take place in the sessions of the Conference.

WELLES

715.1715/869 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, November 3, 1937—6 p. m.

[Received 8:57 p. m.]

2. An organization meeting of the Commission was held at 3:00 o'clock this afternoon. Mr. Zuniga Montufar, Foreign Minister of Costa Rica, was named president by joint proposal of the other two members. It was decided to use the designation "Commission for mediation in the border conflict which has arisen between Honduras and Nicaragua". The Commission will meet again tomorrow morning at 10:00 to receive informally the delegates who are here from Honduras and Nicaragua. It is planned to hold a solemn inaugural session as soon as possible, probably Friday or Saturday.

CORRIGAN

715.1715/883 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, November 5, 1937—11 a. m.

[Received 7:55 p. m.]

4. The fourth meeting of the Commission, which was a private session, was held yesterday afternoon. A tentative program of procedure was formulated covering the steps to be taken regarding the present crisis, before proceeding to a consideration of the fundamental issue, the boundary controversy. In this connection I presented to the Commission a translation of the suggestions listed in my orders under section 1. The remainder of the meeting was devoted to a discussion of the methods to be followed in receiving the complaints of the delegates of the contending countries and of the technique to be followed in obtaining their agreement to the Commission's suggestions. It was decided to request the delegates to present briefs giving "a concrete exposition of the events which have occurred in each of

the countries which have caused the present state of tension, without for the moment entering into the fundamental bases of the controversy”.

Tactful handling of the numerous press representatives, who are overeager to obtain a front page story daily, presents a real problem. If the Department perceives no objection, I am considering suggesting to the Commission that it invite the press to a special meeting, cite the favorable reception accorded by the peoples of the world to the principles underlying the Buenos Aires and other peace pacts, and frankly to invite them to cooperate with the Commission, in the interests of peace, to give practical effect to these principles, by refraining from the publication of inflammatory editorials and exaggerated, unconfirmed, distorted or invented tales of troop movements, atrocities and so forth. Such a self-imposed restraint might be more effective than any promises by governments to prevent such actions by all the means within their restricted legal powers.

Following the afternoon session the Nicaraguan Minister of Foreign Affairs and his fellow-delegate called on me by appointment made at their request to complain that the Honduran press is continuing to print inflammatory articles and editorials. He presented me with copies of two recent Honduran newspapers as justification for this complaint. He also desired to apologize on behalf of President Somoza for his not having greeted me at the airport in Managua on Tuesday, stating that he was out of the city at the time and did not know that I was passing through. I gained the impression that Nicaragua would not oppose too strongly a move to refer to arbitration the question of the legality of the award of the King of Spain. The Commission meets again at 3:00 this afternoon.

CORRIGAN

715.1715/907: Telegram

The Special Representative of the President (Corrigan) to the Secretary of State

SAN JOSÉ, November 9, 1937—2 p. m.

[Received 6 p. m.]

7. The formal meeting of the Mediation Commission at 10:00 this morning was inaugurated by President León Cortes of Costa Rica. There were four speeches of some 20 minutes each: One by the President of the Republic welcoming the Commission; one by the President of the Commission is [*in*] reply and welcoming the delegations of Honduras and Nicaragua; one by Doctor Silverio Lainez, first Honduran delegate and one by Doctor Manuel Cordero Reyes, first Nicaraguan delegate. All of the speeches displayed a spirit of com-

plete Central American fraternalism and desire for peace. Complimentary reference was made to George Washington and Simón Bolívar, as the initiators on the American continent of the principles of democracy and international cooperation, to Elihu Root and James Buchanan in connection with the Central American Court of Justice, to Chief Justice Hughes for his work in the field of international law in the Americas, and to the advancement of these measures for the avoidance of war and the promotion of international justice in the Buenos Aires Conference initiated by President Roosevelt and Secretary Hull.

It was the feeling of all who took part that in this solemn opening session the mediatory task of the Commission was well begun.

CORRIGAN

715.1715/931 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, November 12, 1937—9 p. m.

[Received November 13—9 : 20 a. m.]

10. This afternoon's meeting of the Commission was devoted to consideration of the suggestions to be made by it to the two contending Governments. The first draft suggests that the two Governments make reciprocal offers on the following nine points:

(1) To abstain from troop mobilizations; (2) to withdraw from the border and from nearby areas all troops in excess of those normally maintained there, reverting to the position on August 1st, and informing the Commission when this has been accomplished; (3) to suspend immediately all arms purchases in excess of normal; (4) to prevent flights by military airplanes over border areas; (5) to give efficacious protection to citizens of one country resident in the territory of the other; (6) to avoid the use of stamps containing maps of either country and to withdraw those now in circulation (it is hoped by this wording to save Nicaragua's face by obtaining withdrawal of the 1925 Honduran stamp as well as the recent Nicaraguan issue); (7) to invite the press to cooperate and to prevent the publication of inflammatory articles in order to maintain the spirit of serenity and cooperation recently adopted by the press of both nations; (8) to exact a similar attitude on the part of radio broadcasting stations; (9) the Commission will request both Governments to inform it of any happening which might give rise to difficulties of any kind, and will suggest that such communications be kept confidential, to prevent their premature publication.

I would appreciate the Department's telegraphic comment and suggestions on these points.

CORRIGAN

715.1715/934 : Telegram

The Special Representative of the President (Corrigan) to the Secretary of State

SAN JOSÉ, November 15, 1937—3 p. m.

[Received 7:21 p. m.]

12. The Commission at its meeting this morning decided to add two additional points to the list contained in my telegram No. 10 of November 12, 9 p. m., as follows:

1. Both Governments offer to prevent fomentation in their territory and especially in frontier regions of revolutions against the other Government.

2. Both Governments reaffirm that they will not resort to arms but will settle the dispute by the pacific means established by international law.

The Commission will meet again this afternoon to approve the wording of the various suggestions and plans to present them informally to the delegations tomorrow. They will be prepared and submitted to the two delegations for transmission to their Governments only after substantial agreement has been obtained.

CORRIGAN

715.1715/931 : Telegram

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

WASHINGTON, November 15, 1937—4 p. m.

5. For Corrigan. Your no. 10, November 12, 9 p. m. I believe that agreement between the parties to the controversy on the points enumerated in your telegram should prove most helpful in preventing a recurrence of tension in their relations, and in that connection I assume that the commission may also wish to give consideration to the desirability of determining the normal strength of frontier garrisons for the purpose of carrying out point 2, and of clarifying the meaning of normal purchases of arms under point 3. With regard to point 6, could this not be extended to include maps?

HULL

715.1715/952 : Telegram

The Special Representative of the President (Corrigan) to the Secretary of State

SAN JOSÉ, November 18, 1937—9 a. m.

[Received 4:12 p. m.]

16. Taking into consideration the viewpoints of the two delegations, the Commission yesterday afternoon modified several of its recom-

mendations. Point 1 now provides that each Government shall notify the Commission of the numbers and places of troops maintained on or near the border on August 1, before the present tension arose. Point 2 provides for the reestablishment of this situation, the withdrawal of excess troops to be commenced immediately and completion of the withdrawal to be reported to the Commission. Point 3 provides that both Governments shall immediately suspend all arms purchases for a period of 6 months, exception being made for contracts already signed and in execution. The other changes were unimportant. These suggestions will be prepared in proper form tomorrow and it is planned to deliver them to the two delegations on Friday.

The first Nicaraguan delegate today presented informally to the President of the Commission the information contained in telegram No. 171, November 16, 6 p. m.,⁵⁷ from Managua to the Department. The Commission felt that such incidents, and press leaks (as reported in my telegram No. 15 of November 17, 11 a. m.⁵⁷ and recurring in this morning's newspapers, from what I am convinced are local sources) imperilled the mediation. Early completion and presentation of the Commission's recommendations was therefore decided upon.

CORRIGAN

715.1715/957 : Telegram

The Special Representative of the President (Corrigan) to the Secretary of State

SAN JOSÉ, November 18, 1937—9 p. m.

[Received November 19—1:30 a. m.]

17. For the Under Secretary. The 10 points of mediation approved by the Commission were signed and delivered to the two delegations tonight and I have every hope that they will be accepted by the two Governments. This will relieve present tension but I am not so sanguine as to the future. The only real way to avoid war is to settle the basic boundary controversy. I feel there is a real desire to settle the matter once and for all on the part of Nicaragua, and an equally real disposition to compromise in order to obtain this end. I cannot say as much for the attitude of Honduras, which takes the stand in public and in private that the Mediation Commission exists not to conciliate a dispute as to the frontier, but to *force* Nicaragua to accept the line of the award of the King of Spain as the definitive boundary. I seriously doubt if Honduras would be willing, for example, to cede certain territory on the left bank of the Cocos River

⁵⁷ Not printed.

and the lands between it and the Cruta to Nicaragua in return for acceptance by the latter of the principle of the validity of the King's award, the most reasonable solution which occurs to me so far, since the villages lying in these territories have long been Nicaraguan by every standard and could not be abandoned by Nicaragua. Furthermore, I seriously doubt that Honduras will consent even to submit the validity of the award to arbitration and fear that any peaceful gesture on the part of the Honduran Government would be rejected by the people of the country, in their present temper. I, therefore, consider that it might be desirable for the Commission to recess if or after the Protocol is signed, to allow time for passions to cool and for diplomatic approaches to Carias, in the hope that modification of the present *intransigent* attitude of Honduras can be obtained. I regretfully repeat my belief that the full moral pressure of the United States will be necessary to induce Honduras to make any concession whatsoever in the interest of peace. This mediation cannot be permitted to fail, or the entire structure so carefully erected at Buenos Aires falls to the ground.

CORRIGAN

715.1715/979 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, November 23, 1937—1 p. m.

[Received 4:47 p. m.]

20. Referring to my telegram No. 19, November 23, noon,⁸⁸ the text of the telegrams sent *en clair* marked confidential to the two Presidents is informally translated as follows:

"The Mediation Commission, firmly confident of the patriotism and sincere cooperation of Your Excellency's Government, does not hesitate urgently to request of Your Excellency the strictest vigilance in order to avoid any incident however small, especially in the frontier regions, which might be seriously prejudicial to the high aims of the mediation in progress. We wish equally that whatever causes of friction arising, which might perturb our actions, be communicated by Your Excellency to the Mediation Commission with the certainty that the efforts which it is making to conserve the peace will be placed immediately in motion to try to find a satisfactory solution for each case. We are communicating in identical words with the President of Nicaragua (or Honduras), respectfully yours, signed by all three members of the Commission."

Repeated to Managua and Tegucigalpa.

CORRIGAN

⁸⁸ Not printed.

715.1715/980 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, November 23, 1937—2 p. m.

[Received 6:20 p. m.]

21. The Nicaraguan reply to the 10 suggestions made by the Commission was delivered officially last night. Nicaragua accepts basically all the points and is disposed to sign a convention putting them into effect. It desires to add, however, certain "natural additions" within the bases recommended, leading to the certainty of proper compliance. These latter suggestions are to be communicated to the Commission at the proper time. The Commission considers the reply very satisfactory.

The Nicaraguan first delegate this morning presented to the Commission a copy of the telegram sent to Tegucigalpa by the Nicaraguan Acting Minister for Foreign Affairs protesting the events reported in telegram No. 174 of November 22, 9 [10] p. m. from Managua.⁵⁹

CORRIGAN

715.1715/985 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, November 26, 1937—9 p. m.

[Received November 27—1:25 a. m.]

25. The reply of the Honduran Government was not delivered until 4:30 this afternoon although it came in yesterday's air mail. Important changes considered contribute to a bad impression which the reply has made on the Mediation Commission. The 10 suggestions hereafter referred to as "points" are reduced to 8 by combining points 1 and 2 and eliminating point 7 which refers to the non-use of stamp maps. The changes made by merging points 1 and 2 are technical and not of basic importance.

Point 5 (Honduran number 4) adds "except in case of a revolution in said frontier regions".

Point 6 (Honduran number 5) insert after the words "protection", "in accordance with the law".

Point 7 eliminated with a statement that Honduras has been using its official map on stamps since 1926.

Points 8 and 9 of our draft now to be considered as Honduran points 6 and 7 are accepted without alteration.

⁵⁹ Not printed.

Point 10 now Honduran number 8 is badly modified. I quote the new text in translation:

"A mutual offer on behalf of both Governments not to employ arms meanwhile (*entanto*) the present difficulties have not been ended (*terminen*) by pacific measures established by international law, without prejudice to the Honduran reservation at the signing of the Arbitration Convention of January 5, 1929 at Washington, D. C., United States of America".⁶⁰

The Commission feels that the elimination of our point 7 is seriously non-cooperative and that Honduran point 8 is not acceptable in its present form. Conferences will be held with both delegations tomorrow.

CORRIGAN

715.1715/993: Telegram

The Special Representative of the President (Corrigan) to the Secretary of State

SAN JOSÉ, November 29, 1937—8 p. m.

[Received 11:43 p. m.]

27. A note was sent to the Honduran delegation today expressing the firm hope that the following texts corresponding to points 6 and 9 would receive the approval of their Government:

[Point] 6. A mutual offer by both Governments not to use stamps on which appear maps of Honduras and Nicaragua. It is clearly and explicitly understood that this offer does not in any way affect the basal rights which are claimed by each one of the Republics of Honduras and Nicaragua in their boundary dispute.

Point 9 (last). A mutual offer by both Governments not to solve their present boundary dispute by arms but by the peaceful measures which are consecrated by the anti-war pacts signed at Buenos Aires December, 1936. This offer preserves the reservation of Honduras as deposited (*con sagrada*) in the Arbitration Convention signed January 5, 1929, in Washington, et cetera.

CORRIGAN

715.1715/1008: Telegram

The Special Representative of the President (Corrigan) to the Secretary of State

SAN JOSÉ, December 4, 1937—4 p. m.

[Received 9:28 p. m.]

31. Secretary Izaguirre appeared before the Commission this morning and suggested slight changes in text desired by the Honduran

⁶⁰ *Foreign Relations*, 1929, vol. I, pp. 659, 665.

delegation. These having been made to his satisfaction, the Commission in order to avoid further objections and delays added a reassuring paragraph which also received Izaguirre's hearty approval. This tenth point and the nine already reported seem to be acceptable to the Honduran delegation. Confirmation of their decision is hoped for by Monday. The new point 10 reads as follows in free translation: "It is clearly and explicitly understood that none of the foregoing offers affects in any way the fundamental issues of the boundary controversy that has arisen between Honduras and Nicaragua."

In view of the possible early conclusion of this phase of the Commission's work, the organization of a permanent Secretariat was informally discussed and there will be further interchange of opinion on this subject at Monday's meeting.

CORRIGAN

715.1715/1011 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, December 6, 1937—1 p. m.

[Received 3:20 p. m.]

32. The Commission is considering eliminating point number 6 (stamps) on the insistence of Honduras. I have not yet agreed to this and would appreciate the Department's telegraphic instructions.

CORRIGAN

715.1715/1012 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, December 6, 1937—8 p. m.

[Received 11:19 p. m.]

33. In the conference held this afternoon with the Nicaraguan delegates they declared their readiness to sign a protocol incorporating the points agreed on up to the present time and with respect to the elimination of point No. 6, referred to in my telegram No. 32, of today. They stated the retention or elimination of this point referring to stamps would not alter their willingness to sign.

If this point does not cause delay the protocol is likely to be signed within a few days. The matter of a permanent secretariat is now under discussion.

CORRIGAN

715.1715/1011 : Telegram

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

WASHINGTON, December 7, 1937—5 p. m.

12. For Corrigan. Your no. 32, December 6, 1 p. m. and 33, December 6, 8 p. m. In view of the expressed willingness of the Nicaraguan delegation to waive insistence on point 6 you are authorized in your discretion to agree to its elimination if in your judgement it is essential in order to expedite signature of the agreement.

HULL

715.1715/1020 : Telegram

The Special Representative of the President (Corrigan) to the Secretary of State

SAN JOSÉ, December 9, 1937—8 p. m.

[Received December 10—12:15 a. m.]

34. Referring to the Department's telegram of December 7, point regarding stamps has been eliminated and both delegations are ready to sign tomorrow afternoon at 5 o'clock. The accepted draft takes points 1 to 7 of the Honduran note No. 12 (refer to enclosure to my despatch No. 25 of November 27th⁶¹) almost verbatim. Point 8 in translation now reads "A mutual offer of both Governments not to solve the present conflict by means of arms." Point No. 9 (final point) "A mutual offer of both Governments to solve the present conflict by pacific means as established by international law."

CORRIGAN

715.1715/1021 : Telegram

The Special Representative of the President (Corrigan) to the Secretary of State

SAN JOSÉ, December 9, 1937—11 p. m.

[Received December 10—9:20 a. m.]

35. Referring to my telegram No. 34, December 9, 8 p. m., point number 9 should read as follows: "A mutual offer of both Governments to solve the present conflict by pacific means as established by international law. This offer does not affect the Honduran reservation made to the general Treaty of Arbitration signed January 5, 1929, in Washington, United States of America".

CORRIGAN

⁶¹ Not printed.

715.1715/1024 : Telegram

The Special Representative of the President (Corrigan) to the Secretary of State

SAN JOSÉ, December 11, 1937—6 p. m.

[Received 7:50 p. m.]

38. Referring to my telegram No. 37, December 10, 1 p. m.,⁶² the Pact of Mutual Agreements for Preservation of Peace between Honduras and Nicaragua was signed today at 5:30 p. m.

CORRIGAN

715.1715/1045

The Special Representative of the President (Corrigan) to the Secretary of State

No. 36

SAN JOSÉ, December 11, 1937.

[Received December 15.]

SIR: I have the honor to transmit in quintuplicate copy with translation of the text of the Pact of Mutual Agreements entered into between Honduras and Nicaragua, which was signed in the Reception Hall of the Ministry for Foreign Affairs at San José at 5:30 P. M. on December 10, 1937.

Respectfully yours,

FRANK P. CORRIGAN

[Enclosure—Translation]

Text of the Pact of Mutual Offers Suggested by the Mediation Commission

At the city of San José, Costa Rica in the Reception Hall of the Ministry for Foreign Affairs of the Republic at five o'clock in the afternoon of December tenth, nineteen hundred and thirty-seven, before the Mediation Commission in the present conflict between the Republics of Honduras and Nicaragua, composed of the Plenipotentiary Representatives of the Government of Costa Rica, Licenciado Tobías Zuñiga Montufar, present Secretary of State in the Ministry for Foreign Affairs and President of the Commission, of the Government of the United States of America, Doctor Frank P. Corrigan, and of the Government of the United States of Venezuela, Doctor José Santiago Rodríguez; having assembled the Plenipotentiary Delegates of the Governments of the Republic of Honduras, Doctor Silverio Laínez and Doctor Rómulo E. Durón, and of the Republic of Nicaragua, Doctor Manuel Cordero Reyes, present Minister for

⁶² Not printed.

Foreign Affairs, and Doctor Carlos Cuadra Pasos; and after having presented their respective credentials which were found in order; and both delegations animated by a strong sentiment for concord and peace and the same worthy desire that the motives which have caused the present tension in the relations between the two sister countries be removed and that the cordial relations which have always existed and should continue to exist between the Governments and people of both countries be reestablished, they have agreed to accept, as in effect they accept and sign under the good faith and honor of their respective governments, the following Pact of Mutual Offers, respectively suggested by said Mediation Commission:

1. A mutual offer of the Governments of Honduras and Nicaragua to retire detachments or military units which were not usually or normally maintained in the frontier regions of both countries and in places near thereto, prior to the first of August of the present year; and to inform the Mediation Commission of the fulfillment of this offer.

2. A mutual offer of both Governments to refrain from all preparation for war and from all mobilization or concentration of troops which are not usual or normal, except in the case of troop mobilization that had for its object the suppression of an internal armed movement.

3. A mutual offer of both Governments to suspend immediately, and for a period of six months from this date, all purchases of arms, ammunition, apparatus and other equipment of war, of any nature whatsoever. Contracts already signed and which are being executed are excluded from this offer.

4. A mutual offer of both Governments that military airplanes shall not make flights over the frontier regions of both countries, except in the case of a revolution in said frontier places.

5. A mutual offer of both Governments that the authorities of each country shall provide effective protection according to law to the nationals of the other country resident in its territory.

6. A mutual offer of both Governments to invite the newspaper men, writers and managers of radio broadcasting stations to cooperate in the sense of preventing every kind of publication and radio broadcasts tending to inflame the public sentiment of each of the countries against the other, in order to maintain and stimulate a spirit of conciliation and serenity already spontaneously adopted by the reporters, publishers and owners of radio broadcasting stations of both countries.

7. A mutual offer of both Governments to prevent that in each other's territory, there be planning or fomenting of revolutionary movements or whatsoever acts or thing which may tend to disturb the peace in the territory of the other, especially in the frontier regions.

8. A mutual offer of both Governments not to solve the present conflict by armed means.

9. A mutual offer of both Governments to solve the present conflict by pacific means as established by International Law. This offer does not affect the Honduran reservation made to the General Treaty of Arbitration signed on January 5, 1929, in Washington, D. C., United States of America.

In witness whereof and in complete agreement we sign this Pact in five copies of equal validity.⁶³

Mediation Commission
Delegation of Honduras
Delegation of Nicaragua

715.1715/1037 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, December 13, 1937—3 p. m.
[Received 5:55 p. m.]

42. There is being considered the formation of a board of military experts to supervise and report on the carrying out of the military provisions of the pact just signed between Honduras and Nicaragua. Please instruct me as to whether or not the Government of the United States desires to appoint a military expert to serve on such a board. It is understood that the expenses would be met by the Governments of Honduras and Nicaragua.

CORRIGAN

715.1715/1042 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, December 15, 1937—2 p. m.
[Received 4:14 p. m.]

44. A cable from Washington which attributed to Minister Escalante⁶⁴ and Assistant Secretary Sumner Welles a statement that the seat of the conference be changed to Caracas has caused a very bad impression in the Ministry of Foreign Relations of Costa Rica. May I deny the authenticity of this report?

CORRIGAN

715.1715/1037 : Telegram

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

WASHINGTON, December 15, 1937—7 p. m.

16. For Corrigan. Your 42, December 13, 3 p. m. It is my understanding that among the principal functions of the permanent Secretariat now under consideration would be to receive complaints which

⁶³ Signatures do not appear on file copy.

⁶⁴ Diógenes Escalante, Venezuelan Minister in the United States.

might be made by either party to the agreement of violations thereof and to take appropriate action after proper investigation of the facts. While it is possible that the Secretariat might later require the services of neutral military observers to investigate specific complaints of alleged violations of the military clauses of the agreement, I am of the opinion that the Commission should rely primarily on the good faith of the parties to the agreement for its fulfillment, and hence that the formation at this juncture "of a board of military experts to supervise and report on the carrying out of the military provisions" might not be desirable. I should appreciate receiving your comments on the foregoing before instructing you definitely.

You may however inform the other members of the commission that this Government would be prepared to detail the American Military Attaché resident in Panama, Colonel Joseph B. Pate, to cooperate with other neutral military observers in the investigation of an alleged violation of military clauses of the agreement in a particular case which had arisen if such action appeared to be necessary after consideration of the facts.

HULL

715.1715/1049a : Telegram

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

WASHINGTON, December 16, 1937—7 p. m.

17. For Corrigan. As will be seen from a study of the memorandum attached to the Department's instruction of December 11, 1937,⁶⁵ at the time the three Governments tendered their good offices to the Governments of Nicaragua and Honduras there was some discussion between them, as well as with the Nicaraguan and Honduran authorities, with regard to the seat of the conference. Although no written understanding was formulated, it was our understanding that it was agreed that it would be desirable, (1), that the seat of the conference during the preliminary stage be near the two disputant countries in order to facilitate the formulation of the protocol; (2), that once this protocol had been signed, a permanent secretariat should be established at San José to observe compliance with the terms of the protocol; and (3), that the seat of the further discussions be removed from Central America in order that these might take place in a dispassionate atmosphere. At the time Caracas was mentioned as a suitable seat for the second stage of the conference.

Under instructions from his Government, the Minister of Honduras today called at the Department and recalled that his Government had, in agreeing to San José, made reservations with regard to continuing

⁶⁵ Not printed.

at San José during the second stage. He indicated that his Government would look with favor upon the selection of Caracas.

This matter was discussed informally with the Costa Rican Minister today. He recalled the discussions regarding the seat of the conference, and stated that he had not informed his Government in detail regarding them, but had merely indicated to his Government that it might expect that after the first stage of the conference was over there might be discussions with regard to the seat of the conference for the second stage. To date he has had no indication as to what the attitude of his Government might be, although he stated his personal belief that his Government would of course wish to follow the desires of Nicaragua and Honduras in this regard.

Under these circumstances the Department is concerned because of the press report referred to in your telegram no. 44 of December 15, 2 p. m. Please seek an immediate interview with the Minister of Foreign Relations and, after stating that the report referred to is incorrect, make clear to him that the Department has no fixed attitude with regard to the seat of the second stage of the conference but, on the other hand, is prepared to agree to whatever is satisfactory to the disputant governments and to the other governments extending good offices. In particular, an effort should be made to disabuse any belief that the Minister may have that this Government and Venezuela have engaged in conversations with the object of deciding where the seat of the second stage of the conference shall be.

The best manner of handling this delicate matter is left to your discretion. However, you might suggest to the Minister and to the Venezuelan delegate that the preferences of the two disputant governments should be the guiding considerations in the decision and that it would be well, therefore, to ascertain directly from the delegations the desires of their respective governments.

HULL

715.1715/1050 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

SAN JOSÉ, December 17, 1937—2 p. m.

[Received 4:35 p. m.]

45. The plenary sessions of the Mediation Commission adjourned at noon today. Recess of Commission begins December 18 with agreement to reconvene on or about February 15, the place being left in abeyance, but with the permanent secretariat remaining in San José.

CORRIGAN

715.1715/1068a : Telegram

*The Secretary of State to the Special Representative of the President (Corrigan)*⁶⁶

WASHINGTON, December 24, 1937—11 a. m.

42. Please submit a brief report by cable on the following points:

(1) Was any agreement reached for the submission to the Secretariat of complaints of violation of the agreement of December 10 or of other incidents in connection with the border controversy which may arise?

(2) What was the final decision with regard to a visit by the Commission to the disputed area and the capitals of the two disputant countries?

(3) What was the status of the proposal for formation of a board of military experts upon adjournment of the Commission?

You may wish to communicate the substance of this telegram as well as your reply to Ocheltree.⁶⁷

HULL

715.1715/1069 : Telegram

The Special Representative of the President (Corrigan) to the Secretary of State

PANAMA, December 27, 1937—noon.

[Received 2:50 p. m.]

95. Referring to Department's telegram No. 42, December 24, 11 a. m.

1. Oral understanding was obtained from the delegations. They were then informed by note (copy sent to the Department) of the formation of the Secretariat and its readiness to receive communications of whatever nature bearing on the controversy.

2. The Commission was of the unanimous opinion that nothing would be gained by a visit at the time to the disputed area or the capitals of the disputant countries. It was decided to postpone such visits until a time when some object might be gained by making them.

3. It was agreed that no board of military experts would be formed unless and until events make it necessary or desirable. It was informally suggested to each delegation in turn that it would be quite in order for them to agree on a neutral military observer satisfactory to both Governments.

The files are under Ocheltree's care in San José and I shall communicate the substance of the Department's telegram and of my reply

⁶⁶ Dr. Corrigan had returned to his post as Minister in Panama.

⁶⁷ John B. Ocheltree, American Foreign Service Officer, secretary to Dr. Corrigan.

to him in order that he may furnish possible additional detailed information regarding the points mentioned by the Department. If Department approves I recommend that Ocheltree visit Managua and Tegucigalpa right after January 1st in order to get reactions at first hand and come to me in Panama before the middle of January so that I may have the advantage of his information before arranging to come to Washington for consultation prior to the resumption of negotiations.

CORRIGAN

715.1715/1078 : Telegram

*The Secretary to the Special Representative of the President
(Ocheltree) to the Secretary of State*

SAN JOSÉ, December 30, 1937—noon.

[Received 4:15 p. m.]

47. Referring to Department's telegram No. 42, December 24, 11 a. m., to the Legation at Panama City and telegram No. 95, from the Legation in reply.

1. A copy of the Commission's note No. 35 dated December 17 informing the delegations of the existence of a permanent secretariat charged with receiving all communications and reports which directly or indirectly concern or might interest the Mediation Commission was transmitted to the Department with the minutes of the Commission by despatch No. 42 of December 18⁶⁹ via S. S. *Veragua* due at New York January 2. In reply to the Commission's note the Honduran delegation made a brief acknowledgment of the resolutions made by the Commission, stating they would communicate them to their Government. The Nicaraguan delegation made a similar reply, adding [apparent omission] to leave a permanent secretariat in San José for all reports and communications which might concern or interest the objectives of the mediation, under the direction of the Nicaraguan Minister at San José. Copies of this correspondence will be forwarded to the Department tomorrow by airmail.

2. In conversation last week with the President of the Commission regarding possible visits to the disputant countries he recalled that the Commission had tentatively agreed off the record that Dr. Santiago Rodrigues would visit Honduras and Nicaragua on some such occasion as conferring of decorations by the Venezuelan Government.

3. The status of the proposals for formation of a board of military experts was reported by airmail despatch No. 41, December 17.⁶⁹

OCHELTREE

⁶⁹ Not printed.

715.1715/1069 : Telegram

*The Secretary of State to the Special Representative of the President
(Corrigan)*

WASHINGTON, December 30, 1937—3 p. m.

44. Your no. 95, December 27, noon, reference last sentence. I do not consider it desirable for Ocheltree to visit Managua and Tegucigalpa at this time. Have you considered the possibility of making a brief visit to those two capitals on your way to the United States?

HULL

715.1715/1079 : Telegram

*The Special Representative of the President (Corrigan) to the
Secretary of State*

PANAMA, December 31, 1937—noon.

[Received 2:50 p. m.]

97. Referring to Department's telegram No. 44, December 30, 3 p. m. As stated in numbered paragraph 2 of my telegram number 95, December 27, noon, all members of the Commission agreed between them not to visit Honduras and Nicaragua at this time. Consequently, I would be embarrassed should I myself visit those countries without prior consultation with my colleagues on the Commission.

With the following objective in mind, Ocheltree's visits to Tegucigalpa and Managua were suggested: (1) to obtain through his established personal acquaintance with the Honduran and Nicaraguan delegates and his familiarity with the negotiations information usefully supplemental to that furnished by our Legations, (2) to broaden his knowledge of the Central American scene and thereby to increase his usefulness to the special mission. See air mail despatch No. 127, December 30.⁷⁰

CORRIGAN

⁷⁰ Not printed.

REQUEST OF GUATEMALA THAT THE UNITED STATES
USE ITS GOOD OFFICES WITH THE UNITED KINGDOM
IN SUPPORT OF GUATEMALAN CLAIMS WITH RESPECT
TO BELIZE

714.44A15/20

The Minister in Guatemala (Des Portes) to the Secretary of State

No. 96

GUATEMALA, September 12, 1936.

[Received September 17.]

SIR: I have the honor to transmit herewith a communication from the Acting Minister for Foreign Affairs to the Secretary of State, together with copy and translation thereof, requesting assistance in the controversy between Guatemala and Great Britain in connection with the territory of Belize or British Honduras. It is understood that the communication of the Acting Minister for Foreign Affairs follows substantially the terms of the communication addressed by President Ubico to President Roosevelt on the same subject under cover of despatch No. 94, of September 9, 1936,¹ although I have not received a copy of that document.

It will be recalled that the controversy was the subject of extensive correspondence between the Guatemalan Foreign Office and the British Legation in this city during the years 1933 and 1934. Copies of this correspondence were furnished to the Legation by the parties thereto which were transmitted to the Department under cover of the despatches indicated below:²

<i>Despatches</i>	<i>Date</i>
No. 918	April 10, 1933
No. 924	April 19, 1933
No. 942	May 8, 1933
No. 969	June 22, 1933
No. 168	May 3, 1934
No. 442	Nov. 30, 1934

The report of the Minister for Foreign Affairs to the Legislature on this subject was transmitted to the Department under cover of despatch No. 467 of December 19, 1934.

¹ Not printed.

² None printed.

In receiving the communications referred to from the Acting Minister for Foreign Affairs for transmittal to the President and the Secretary of State there was no discussion of the subject.

Respectfully yours,

FAY ALLEN DES PORTES

[Enclosure—Translation]

The Guatemalan Acting Minister for Foreign Affairs (González) to the Secretary of State

GUATEMALA, September 10, 1936.

MR. SECRETARY: I have the honor to address Your Excellency to beg your illustrious attention to a matter which surely must deserve it because it profoundly affects the rights and interests of a country which, like Guatemala, has full confidence in the firm spirit of justice and continental solidarity of the United States, and with which it has been united, furthermore, by the frankest and most cordial friendship since the first years of its independent life.

Your Excellency will allow me to set forth the case at some length, but not without first stating to you that His Excellency General Jorge Ubico, President of Guatemala, has already done so confidentially to His Excellency Franklin D. Roosevelt, President of the United States.

With the Monroe Doctrine,³ the Government of the United States protected and strengthened the independence of the other American Republics,—and later, with the Clayton-Bulwer Treaty,⁴ it put an end to foreign usurpations in the central part of the continent.

Central America inherited, *de facto*, and *de jure*, from the Spanish Government, its former sovereign, all the territories which belonged to the Captaincy-General of Guatemala, as of September 15, 1821, the date of its independence.

During the colonial régime, English corsairs and pirates continuously made armed invasions, devastating its growing cities, razing the fields and sacking their wealth. The pirates established places of refuge along the coasts of Nicaragua, Honduras and Guatemala, and later the British Government, taking advantage of those elements, wished to form colonies and establish protectorates in the field of its

³ The annual message to Congress of President James Monroe, December 2, 1823, contains two passages, one early in the document and one toward the end, which comprise the basic statement of the Monroe Doctrine; see James D. Richardson, *A Compilation of the Messages and Papers of the Presidents, 1789-1897* (Washington, Government Printing Office, 1896), vol. II, pp. 209, 218-219; see also section entitled "Official Statement of and Commentary Upon the Monroe Doctrine by the Secretary of State," *Foreign Relations, 1929*, vol. I, p. 698.

⁴ Treaty between the United States and Great Britain signed at Washington April 19, 1850, Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 5, p. 671.

own invasions; which did not end until the diplomatic action of the United States ended the possibility of territorial expansions of Great Britain.

Buccaneers and pirates had seized the coasts of Guatemala, with the protection of the English Government; and although Spain drove them out of Belize (or British Honduras) several times, again they returned to strengthen their positions, until, by the Treaty of Versailles of September 3, 1783,⁵ known by the name of Aranda-Manchester, which was exchanged on the 19th of the same month, it was agreed that English subjects would have solely and exclusively the right to cut, load and transport dye woods in the district of that territory comprised between the rivers Belize and Hondo; it being understood in an express and definite manner that Spain would retain full sovereignty over the above-mentioned district and that the concession with that definite purpose excluded the right of founding cities, constructing forts and engaging in agriculture of any kind. Great Britain would withdraw from the territory occupied by its subjects, handing it over to the Spanish Government, its legitimate owner, and only they could settle as usufructuaries in that district, under the definite restrictions agreed upon.

The Treaty of Versailles referred to was not complied with by the English Government except in appearance. The Del Campo-Carmarthen Convention, signed in London on July 14, 1786,⁶ extended the area of the territory granted toward the south, prolonging it from the Hondo River to the Sibún River. In exchange for that extension, England was obliged to withdraw from the territory of Mosquitía along the Atlantic Coast of Nicaragua. The restriction of engaging in agriculture, erecting fortifications and maintaining armed troops was reiterated,—it being stated explicitly that the sovereignty of Spain in that region was maintained integrally, in which region the English were granted no other right than that of cutting timber of various kinds.

Again Great Britain did not comply with its solemn agreement and the usurpation became more ostensible, to such an extreme that it not only established its dominion up to the marked boundary of the Sibún River, but in reality, by successive invasions advanced to the Sarstoon

⁵ For the text, in French, of the Definitive Treaty of Peace and Friendship between Great Britain and Spain, signed at Versailles, see George Frédéric de Martens, *Recueil des principaux traités d'alliance, de paix, de trêve, de neutralité, de commerce, de limites, d'échange etc. conclus par les puissances de l'Europe . . . depuis 1761 jusqu'à présent*, 1st ed. (Gottingue, 1791), vol. II, p. 484; Martens, *Recueil des principaux traités*, 2d. ed., (Gottingue, 1818), vol. III, p. 541. For an English translation, see George Chalmers, *A Collection of Treaties Between Great Britain and Other Powers* (London, 1790), vol. II, p. 229.

⁶ Convention relative to America between Great Britain and Spain, *British and Foreign State Papers*, vol. I, pt. 1, p. 654.

River, thus depriving Guatemala of all the territory of Belize comprised under the former sovereignty of the Spanish Government, succeeded in that sovereignty, thanks to its independence by the Republic of Central America, and by the Republic of Guatemala, afterwards; being deprived, therefore, of its natural outlet to the sea, the rich and vast territory of Petén to the north of the Republic.

In 1834 Guatemala, in exercise of its sovereign authority, entered into contracts for exploitation of lumber to the south of the Sibún River. Great Britain opposed those contracts, preventing their fulfillment, with no more reason than that of force exercised over a young and weak country. She could not allege, in any case, any right other than that of conquest acquired in the Anglo-Spanish struggles at the end of the XVIII Century; but even that supposed right was annulled by the Treaty of Amiens in 1802,⁷ by which England ceded to the French Republic and its allies, among which was Spain, all possessions and colonies occupied by it during the course of the war ended by that Treaty, "Excepting the Island of Trinidad and Dutch possessions of the Island of Ceylon." Anyway, in 1819, Great Britain did not consider Belize as a part of its colonial dominions, as it expressly states in a Parliamentary law, cited by the great North American statesman John Bassett Moore in his classical work on International Law.⁸

English intervention in the internal affairs of Central America, which was a motive for just misgivings on the part of the United States, could have been of decisive importance in all phases of our national life; and the advance would have been unchecked if the Clayton-Bulwer Treaty of 1859, entered into between that Republic and Great Britain had not placed a dike against English expansion on the continent.

Unfortunately, the protection of that Treaty did not succeed in saving Guatemala from the occupation by force which England maintained in the territory of Belize, because the Senate of the United States, upon the request of Great Britain, ratified the Clayton-Bulwer Treaty with the exception or reservation that the obligations con-

⁷ For the French version of the 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, see Martens, *Supplément au recueil des principaux traités* (Gottingue, 1802), vol. II, p. 563; Martens, *Recueil des principaux traités*, 2d ed. (Gottingue, 1831), vol. VII, p. 404. For the English version, in part, see Frances Gardiner Davenport, *European Treaties Bearing on the History of the United States and Its Dependencies* (Carnegie Institute of Washington, 1937), vol. IV, pp. 187-188.

⁸ The reference here is to a statement of James Buchanan, American Minister to Great Britain, for the Earl of Clarendon, British Secretary of State for Foreign Affairs, dated January 6, 1854, and printed in John Bassett Moore, *A Digest of International Law*, vol. III, pp. 154-161. The statement mentions (p. 156) acts of the British Parliament of 1817 and 1819; the acts in question are 57 George 3, c. 53, June 27, 1817, and 59 *ibid.*, c. 44, June 21, 1819.

tracted by Great Britain of withdrawing from Central American territory and not establishing itself therein excluded the region of Belize.⁹ I understand, Mr. Secretary, that the interests of the United States, allied with justice and right, were clearly stated by Mr. Buchanan to the English Foreign Office in 1854, when he said textually, in his character of Minister Plenipotentiary of that Republic: "The Government of the United States states clearly that it recognizes no other right of Great Britain in Belize than that of cutting woods of different kinds temporarily . . . and it recognizes fully that the former sovereignty of Spain belongs to Guatemala or to Mexico . . ." ¹⁰

Guatemala then lost the opportunity of seeing its territory freed of foreign occupants; and to stop and place a limit on English advancement, it was obliged to sign the Boundary Treaty on April 30, 1859,¹¹ by which the *de facto* frontier of the Sarstoon River was recognized.

The Government of Guatemala resisted signing that Treaty, prejudicial to its sovereignty; but the forces which at that time controlled the spirit of the executives of my country—the various negotiations directed to obtaining the support and just intervention of friendly countries having been exhausted unsuccessfully, caused that pact to be signed, with no other compensation than that agreed upon in the Seventh Article, which imposed on Great Britain the obligation of constructing a road which would place the northern coast of the Republic in commercial communication with the capital thereof.

The Treaty was ratified and the exchange of ratifications was duly made; but, as usual, it was not complied with by Great Britain except in the part favoring it. Under the pretext that the cost of the road amounted to one hundred and forty-five thousand four hundred and sixty-five pounds sterling, it suggested substituting the compensatory clause of the construction thereof by the payment of fifty thousand pounds to the Government of Guatemala, which then itself should construct the road. Guatemala accepted the substitution; and the

⁹ No such reservation was made by the United States Senate. For correspondence regarding the exclusion of British Honduras from the terms of the treaty, see Miller, *Treaties*, vol. 5, pp. 681 ff.

¹⁰ The lengthy "remarks" of James Buchanan, Minister to Great Britain, dated July 22, 1854, in reply to a statement of the Earl of Clarendon, British Secretary of State for Foreign Affairs, dated May 2, 1854, include this sentence (House Document No. 1, 34th Cong., 1st sess., p. 113; quoted in Moore, *A Digest of International Law*, vol. III, pp. 139-140): "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 the different kinds, the fruits and other produce in their natural state,' fully recognizing that the former 'Spanish sovereignty over the country' now belongs either to Guatemala or Mexico."

¹¹ Convention relative to the Boundary of British Honduras, between Great Britain and Guatemala, signed at Guatemala, *British and Foreign State Papers*, vol. XLIX, p. 7.

supplementary Treaty was signed on August 5, 1863,¹² by which England was obliged to pay those fifty thousand pounds sterling. Again Great Britain did not comply with that stipulation, because its Parliament refused to ratify it. As for Guatemala, it did not do so in time, due to the justified cause of *force majeure* which has always been explained in England in the course of discussion in the matter. Nevertheless, Guatemala sent its ratification, relying on the official opinion of the Foreign Secretary, Lord Russell, who stated to our Legation in May, 1864,¹³ that if Guatemala gave its ratification and sent it for exchange, he could negotiate an extension of the period, as the six months fixed in the pact for exchange had expired; but there was a change in the English Government, and the new Secretary, Lord Stanley, categorically refused to recognize the existence of the agreement, declaring on his own initiative that his Government was relieved from compliance with its obligations. But, if in conformity with the unilateral English opinion, the supplementary Treaty of 1863 is not in force, the two parties are now confronted by that of 1859 which is in force because it has been invested with all the necessary formalities.

But even in this case, the Government of Guatemala believes, based on the fundamental rules of International Law and on logical rules of international ethics, that if the Treaty of April 30, 1859 has not been fulfilled in the part referring to the obligations contracted by one of the Parties, the said Treaty has no juridical existence; or at least, there are sufficient reasons, based on international law, to ask for its nullification.

Guatemala, nevertheless, desires to exhaust all conciliatory means and has not ceased to negotiate for many years for integral compliance with the Treaty; but everything has been useless, and it is convinced that it will not receive justice unless the spirit in which the question has been discussed is changed.

The merited prestige surrounding the personality of President Roosevelt, worthily seconded by Your Excellency, in the matter of conservation of peace in America, to reach an organic life of international justice which consolidates the good harmony and spirit of peace which must be the model for relations among the States, place

¹² For the Spanish version of the Additional Convention between Great Britain and Guatemala signed at London August 5, 1863, which failed to go into force, see Ramón A. Salazar (ed.), *Colección de tratados de Guatemala* (Guatemala, 1892), vol. I, p. 264; José Rodríguez Cerna (comp.), *Colección de tratados de Guatemala* (Guatemala, 1944), vol. III, pt. 1, p. 157. For an English version, see Ministry of Foreign Affairs, Republic of Guatemala, *White Book: Controversy between Guatemala and Great Britain Relative to the Convention of 1859 on Territorial Matters* (Guatemala, 1938), p. 245.

¹³ For excerpts from a despatch of May 15, 1864, from the Guatemalan Minister in London to the Guatemalan Minister for Foreign Affairs, reporting the former's conversation with the British Secretary of State for Foreign Affairs on this matter, see José Luis Mendoza, *Britain and Her Treaties on Belize (British Honduras)* (Guatemala, 1947), pp. 180-181.

that illustrious Government in a position to aid a weak country of America against the rule of violence and injustice.

Your illustrious compatriots, the statesmen [John] Bassett Moore and [James] Brown Scott have studied the question of Belize, which is familiar to them; and their opinion as noted internationalists certainly coincides with mine in this important matter.

The present juridical situation of the problem can be summarized in the following points:

FIRST

The Treaty of April 30, 1859, by which Guatemala recognized as belonging to Great Britain a territorial area up to the Sarstoon River is unfulfilled by England in so far as the obligations which it contracted with the Republic of Guatemala are concerned.

SECOND

The non-fulfillment of a Treaty by one of the Contracting Parties gives the other the right to ask for its abrogation.

THIRD

The immediate effect of the invalidation or abrogation of a Treaty is to return affairs to the *status quo ante*. Consequently, the Republic of Guatemala has the right to regain possession of the territory of Belize, thus completing its Atlantic coast, along which it has been almost strangled and without possibilities, for a future which may be deemed immediate, for exporting petroleum which surely exists because of inevitable geological reasons, as well as raw materials of the greatest importance, in the above-mentioned department of Petén, opposite Belize. This colony, furthermore, because of its being a free port for English merchandise, is a center of smuggling which greatly prejudices the commerce of Guatemala and Honduras. For that same reason and because of its strategic situation, it was also a point of departure for numerous expeditions of liquor smugglers to the United States when prohibition was in force—and nothing prevents illicit activities from being carried on from there in the future.

FOURTH

The reservation of Great Britain to the Clayton-Bulwer Treaty when it was submitted for approval to the Senate of the United States in no way affected the rights of Guatemala because it was not a party thereto.

FIFTH

Guatemala, as the successor of Spain, has the right to recover all the territories which belonged to it prior to the Treaty of 1783, non-fulfilled by Great Britain.

The English Legation, in the name of its Government, verbally proposed, on the 18th of last August, to conclude this matter by payment to the Government of Guatemala of the fifty thousand pounds referred to in the above-mentioned Convention of 1863, by which its obligations would be cancelled and Guatemala would have no right to any later claim.

Based on the right supporting it and on equity, my Government verbally offered the Legation the replies contained in the two following counter proposals, with the understanding that acceptance by Great Britain of either of them would end this long and annoying matter; the Legation has refused to take them into consideration.

MEMORANDUM No. 1:

I.

Great Britain return to the Republic of Guatemala, as the successor of Spain, first, and as an Independent Nation, secondly, the territory of Belize or British Honduras.

II.

The Republic of Guatemala pay to Great Britain in compensation the sum of £400,000 sterling, in the following manner: two hundred thousand pounds sterling in cash at the time of the exchange of ratifications of the Convention to be celebrated; and two hundred thousand pounds at the time and under the conditions to be stipulated by mutual agreement.

III.

The Republic of Guatemala waive absolutely any claim for non-compliance on the part of Great Britain with the Treaty of April 30, 1859.

IV.

In the event that Great Britain refuse to receive from the Republic of Guatemala the four hundred thousand pounds which it offers in exchange for the territory of Belize, Guatemala proposed that Great Britain pay the same sum to the Republic, granting furthermore, a strip of territory necessary to give the Department of Petén an exit to the sea. Said strip shall be located in the parallel 16°8'39'', being located within the strip, the mouth of the Grande River, Punta Gorda and Cayos de Zapotillo.

V.

With the exception of the strip described in point IV, Guatemala approve the demarkation and marking of the eastern frontier with Belize.

MEMORANDUM No. 2:

I.

The Republic of Guatemala would approve the delimitation of the frontier with Belize, made unilaterally by the Government of Great Britain.

II.

The Republic of Guatemala would waive its claim, constantly reiterated to the English Government, for non-compliance with the Treaty of April 30, 1859; would renounce any right that it would have to deem null and void said treaty for integral non-compliance by one of the Contracting Parties.

III.

In compensation, the Government of Great Britain would pay to the Republic of Guatemala, the sum of fifty thousand pounds sterling (£50,000) plus interest at four percent annually, since April 30, 1859.

IV.

Great Britain, as further compensation, grants to the Republic of Guatemala, with full title, a strip of land so that the Department of Petén bordering Belize may have an exit to the sea. That strip would be such that there would be comprised within it, the mouth of the Grande River, Punta Gorda and the Cayos de Zapotillo. Those conditions would be fulfilled by fixing the southern frontier of Belize at the parallel 16°8'39''.

This is the present state of the question, from which the justice supporting Guatemala appears clearly proved. If the Department of State, so worthily entrusted to the high and well known merits of Your Excellency who today more than ever is interpreter of the juridical ideas and policy of the United States would be so kind as to interpose its moral prestige, which I courteously beg of you, in favor of the right of Guatemala in this matter, you would receive one more claim to the appreciation of our Nation which already owes so much to the counsel and always friendly good offices of that Great Republic.

I avail myself [etc.]

JOSÉ GONZÁLEZ CAMPO

714.44A15/20

*Memorandum by the Chief of the Division of Latin American Affairs
(Duggan) to the Assistant Secretary of State (Welles)*

[WASHINGTON,] February 12, 1937.

MR. WELLES: Guatemala suggested that the Government of the United States "interpose its moral prestige in favor of the right of

Guatemala". After consideration, we have come to the conclusion that a request in this language is not a proper basis upon which to approach Great Britain. If Great Britain were not informed of the precise terms of Guatemala's request, and later learned them, it probably would feel that it had good reason to be resentful at us. If we did inform Great Britain of the precise terms of Guatemala's request, it probably would feel that it could not accept good offices.

The purpose of this note¹⁴ is to clarify the scope of Guatemala's request and to have it placed in such form as will enable this Government or the Government of Guatemala properly to approach the British Government.

LAURENCE DUGGAN

714.44A15/20

The Secretary of State to the Minister in Guatemala (Des Portes)

No. 78

WASHINGTON, February 19, 1937.

SIR: Supplementing the Department's instruction No. 55 of November 20, 1936,¹⁵ transmitting the replies of the President and the Acting Secretary of State to the letters from President Ubico and the Guatemalan Acting Minister for Foreign Affairs in connection with the difficulties which the Governments of Guatemala and Great Britain are experiencing in the interpretation of Article VII of the Boundary Treaty of April 30, 1859, there is transmitted herewith a letter from the Secretary of State to the Acting Foreign Minister which you are requested to deliver in the customary manner. An office copy of this communication is attached hereto.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

[Enclosure]

The Secretary of State to the Guatemalan Acting Minister for Foreign Affairs (González)

WASHINGTON, February 13, 1937.

EXCELLENCY: I have the honor to refer further to Your Excellency's courteous note of September 10, 1936, suggesting that the Government of the United States "interpose its moral prestige in favor of the right of Guatemala" in facilitating a settlement of the controversy between your Government and that of Great Britain concerning the interpretation of Article VII of the Boundary Convention of April 30, 1859, between your two countries.

¹⁴ Enclosure to instruction No. 78, *infra*.

¹⁵ Not printed; the replies which it transmitted were merely acknowledgments.

It is assumed that Your Excellency's request contemplates the extension of good offices on the part of the United States to the end that a solution of the controversy satisfactory to Guatemala and Great Britain may be reached. Should this assumption be correct, I am glad to state that the Government of the United States will make available its good offices in the event that the British Government joins with that of Guatemala in requesting such good offices.

If Your Excellency had in mind the submission of the controversy to arbitration by the United States, my Government would of course be glad to consider the possibility of acting as arbitrator in the matter, provided Guatemala and Great Britain jointly requested its assistance in that sense.

I shall be glad to give further consideration to Your Excellency's note of September 10, 1936, upon a reply from Your Excellency clarifying the scope of the request which Your Excellency wishes to make.

Accept [etc.]

CORDELL HULL

714.44A15/25

The Minister in Guatemala (Des Portes) to the Secretary of State

No. 355

GUATEMALA, August 20, 1937.

[Received August 27.]

SIR: I have the honor to report that on August 19, 1937, in an interview with the Minister for Foreign Affairs, I informally called to his attention the fact that no reply had as yet been made to Secretary Hull's note of February 13, 1937, in which the United States consented to make available its good offices in the solution of the boundary controversy between Guatemala and Great Britain, provided both governments concerned would make the joint request, and in which the Guatemalan Government was asked for a clarification of the scope of its request.

Minister Salazar went into great detail to explain the matter, stating that the question had been under consideration for some time and that only recently definite information had been received from the British Government that arbitration by the United States was not acceptable to it but offering to place the case before the Hague Court. The Foreign Minister said that this suggestion had not met with favor with his Government as it feared that because of Great Britain's influence at the Hague the Guatemalan claim might not receive the full justice it merited. However, Dr. José Matos, who was this country's representative to the Coronation of King George VI, was instructed to make a thorough study of the matter while in England with particular reference to past decisions of the Court and the

character and nationality of the judges who might be called upon to settle the claim.

Foreign Minister Salazar said that upon the return of Dr. Matos to Guatemala today, the question is to be very carefully considered and he expressed the belief that his Government will suggest a compromise whereby the United States Government or President Roosevelt be asked to select the arbitration judges.

Respectfully yours,

FAY ALLEN DES PORTES

714.44A15/26

Memorandum by the Chief of the Division of the American Republics (Duggan) of a Conversation With the Counselor of the British Embassy (Mallet)

[WASHINGTON,] September 2, 1937.

Mr. Mallet said that he was coming in quite informally to let the Department know of a recent action taken by the British Government with regard to the boundary dispute between British Honduras and Guatemala. He said that the Guatemalan Government had proposed to the British Government that the boundary difficulty be submitted to arbitration and that the arbitrator be the President of the United States. He then said that the British Government had informed the Guatemalan Minister in London on August 17 that it would be glad to agree to arbitration of the dispute, but that it would prefer that the arbitration be not in the hands of the President of the United States, but in the Hague Court. Mr. Mallet stated that the British Government wanted this Government to know that in suggesting the Hague Court the British Government was casting no reflection upon the impartiality or good faith of the President of the United States. He said that for some time it has been the invariable practice of the British Government to submit to the Hague disputes of a legal character.

I assured Mr. Mallet that the point of view of his Government was fully understood.

L[AURENCE] D[UGGAN]

714.44A15/28

The Minister in Guatemala (Des Portes) to the Secretary of State

No. 420

GUATEMALA, October 23, 1937.

[Received October 29.]

SIR: With reference to the Legation's previous despatches relative to the boundary difficulties between Guatemala and British Honduras and the desire of this country to have the matter arbitrated

by President Roosevelt, I have the honor to inform the Department that Minister for Foreign Affairs Salazar stated to me recently that he had had further conversations with the British Minister to Guatemala and that the latter had suggested the willingness of his Government to have the matter arbitrated, if not by the Court of International Justice at The Hague, by any other European power or authority acceptable to Guatemala. Minister Salazar said that he informed the Minister that Guatemala would not go outside of the continent to arbitrate the difficulty. He then made a counter-offer to the British Minister, informing him that Guatemala would consider the matter settled if Great Britain would consent to the moving of the frontier of Guatemala from its present line, the River Sarstoon, northward approximately twenty-five miles to the Rio Grande which enters the Caribbean immediately above Punta Gorda in British Honduran territory.

It appears that Guatemalan authorities would be eminently satisfied with this concession since it would give a convenient and practical outlet by sea from the Petén district of the country. This offer, however, was flatly rejected by the British Minister as being unacceptable to his Government.

Respectfully yours,

FAY ALLEN DES PORTES

TENDER OF GOOD OFFICES BY THE UNITED STATES,
CUBA, AND MEXICO TO CONCILIATE DIFFERENCES
BETWEEN THE DOMINICAN REPUBLIC AND HAITI

738.39/92a : Telegram

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

WASHINGTON, November 13, 1937—7 p. m.

29. The President last night received the telegram from the President of Haiti requesting this Government to join with the Governments of Cuba and of Mexico in tendering their good offices to Haiti and the Dominican Republic in the controversy which has arisen between them. The President intends sending a reply to the President of Haiti by telegram which reply will be sent in more or less identic terms by the Presidents of Cuba and of Mexico.

[Here follows text of telegram dated November 14 from President Roosevelt to the President of Haiti, printed on page 135.]

The Presidents of Cuba, Mexico, and the United States will likewise send individual telegrams couched in approximately identic terms to the President of the Dominican Republic. The following is the text tentatively agreed upon :

[Here follows text of telegram dated November 14 from President Roosevelt to the President of the Dominican Republic, printed on page 136.]

In view of the statement volunteered to you by President Trujillo that he would avail himself of the friendly services of the Government of the United States should the latter consider it desirable to make the effort to facilitate a pacific solution of the controversy, it is assumed that President Trujillo will welcome the friendly offer of the three Governments named.

It would presumably be useful for you at this juncture to seek a further conversation with President Trujillo, to emphasize the friendly and impartial spirit of the Government of the United States in the controversy, and its hope that its friendly offices together with those of Cuba and of Mexico, if accepted, may serve to bring a prompt solution satisfactory both to the Dominican Republic and to Haiti.

Please keep the Department informed by telegram of any developments.

HULL

738.39/92b : Telegram

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

WASHINGTON, November 13, 1937—7 p. m.

105. The President last night received from the President of Haiti the anticipated invitation to join with Cuba and Mexico in a tender of good offices in the dispute which has arisen between Haiti and the Dominican Republic. The President intends to send a reply to the President of Haiti worded as follows:

[Here follows text of telegram dated November 14 from President Roosevelt to the President of Haiti, printed on page 135.]

He likewise intends to send a telegram to the President of the Dominican Republic couched in the following terms:

[Here follows text of telegram dated November 14 from President Roosevelt to the President of the Dominican Republic, printed on page 136.]

It would seem to be desirable that these messages sent individually by the three Presidents should be as similar in text as possible and that they be sent simultaneously.

Please obtain the point of view of the Government of Cuba with regard to the texts above quoted and suggest that should the Government of Cuba be in accord, the telegrams both to the President of Haiti and to the President of the Dominican Republic be sent at the same hour from Habana, Mexico City, and Washington. I suggest that 7 p. m., tomorrow, November 14, might be a convenient hour to the three Governments concerned.

Please telegraph me as promptly as possible what the decision of the Government of Cuba may be. You may state that the Government of Mexico is in accord with the texts indicated.

HULL

738.39/94 : Telegram

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

HABANA, [undated].

[Received November 14, 1937—3:50 p. m.]

90. Your No. 105, November 13, 7 p. m. The Cuban Secretary of State whom I saw this afternoon showed me the texts of the telegrams sent by his Government yesterday morning to the Presidents of Haiti and the Dominican Republic which are of the same import as those which the President of the United States proposes to send.

The Cuban Government is therefore in full concurrence and proposes to appoint as its representative the Cuban Minister to the

Dominican Republic. In answer to the Secretary's inquiry as to our representative and that of Mexico I said that I assumed that Norweb would be proposed in view of his return to his post although a delegate to the Radio Conference but that I had no information as to the representative of Mexico.

WRIGHT

738.39/101 : Telegram

President Roosevelt to the President of Haiti (Vincent)

WASHINGTON, November 14, 1937.

GREAT AND GOOD FRIEND: I have received Your Excellency's telegram dated November 12,¹ advising me that a situation of tension has unhappily arisen between Your Excellency's Government and that of the Dominican Republic to the prejudice of the present interests of the two peoples and to the harmony of their future friendship. Your Excellency states that, inspired by the spirit of friendship and solidarity advocated by the inter-American agreements concluded in the interest of the maintenance of peace between the peoples of this hemisphere, you request the good offices of the Government of the United States in aiding in a just and prompt solution of the difference now existing between the Republic of Haiti and the Dominican Republic. Your Excellency further advises me that you are making the same request of the Presidents of Cuba and of Mexico in the hope that they may be associated with the Government of the United States in this work of justice and of humanity.

I have learned with profound regret of the controversy which has unfortunately arisen between our sister republics of Haiti and of the Dominican Republic. The Government of the United States possesses no more sincere hope than that the maintenance of peace between the American Republics may be firmly assured and that the friendship and understanding between them may be constantly enhanced. In the hope that it may thereby promote that ideal, the Government of the United States stands ready to join in extending its friendly services in an effort to further the attainment of a pacific solution of the present controversy, satisfactory to both parties thereto, and in the event that these good offices likewise prove acceptable to the Government of the Dominican Republic, it will be happy, jointly with the Governments of Cuba and of Mexico, to tender its good offices to Your Excellency's Government and to the Government of the Dominican Republic.

I avail myself [etc.]

FRANKLIN D. ROOSEVELT

¹ Not printed.

738.39/101 : Telegram

*President Roosevelt to the President of the Dominican Republic
(Trujillo)*

WASHINGTON, November 14, 1937.

GREAT AND GOOD FRIEND: His Excellency, the President of Haiti, has communicated with Their Excellencies, the Presidents of Cuba and of Mexico, and with me, requesting our friendly services in order to further a satisfactory adjustment of the difficulty which has unfortunately arisen between the Governments of the Dominican Republic and of Haiti. The Government of the United States and the Governments of Cuba and of Mexico stand ready to tender their good offices if Your Excellency feels disposed to accept these friendly services. The Governments invited trust that Your Excellency may welcome the step proposed since the peaceful aims which animate the Dominican Government are well known. In offering this friendly assistance, the three Governments believe that they are acting in accordance with the traditional desire for peace of our new world, and in strict conformity with the spirit displayed by all of the American Republics in the Conference at Buenos Aires.

I renew [etc.]

FRANKLIN D. ROOSEVELT

738.39/103 : Telegram

*The President of the Dominican Republic (Trujillo)
to President Roosevelt*

[Translation]

CIUDAD TRUJILLO, November 15, 1937.

[Received 8:40 p. m.]

GREAT AND GOOD FRIEND: It gives me very great pleasure to acknowledge to Your Excellency the receipt of the kind message in which you advise me that in accordance with the invitation given it by the Government of Haiti the United States Government is disposed to offer, together with the Governments of Cuba and Mexico, its good offices for the purpose of promoting a satisfactory settlement of the incident that occurred in the northern zone of the Dominican-Haitian frontier between nationals of the two countries. I hasten first of all to express to Your Excellency the deep satisfaction produced both to me and my Government by the noble interest which Your Excellency displays in the maintenance of continental harmony and peace, whereby your vigorous personality as a friend of peace presents itself once more to the admiration and respect of all of us, who are laboring on the continent with sincerity and true devotion for the union and good understanding of the American nations.

I have the honor to inform Your Excellency that up to this time the Haitian Government has not given the Dominican Government any notification or indication enabling it to know in what the controversy consists that it has been necessary to cite to justify the request for good offices under the convention on that point signed at the Buenos Aires Conference for the Maintenance of Peace.² As soon as the Dominican Government learns of the point which, according to the Haitian Government, is the subject of controversy in connection with the incident mentioned, the Dominican Government will hasten to define its line of action as to whether it accepts or whether mediation or good offices shall proceed. Respecting the noble spirit of pacifism that inspired the conventions signed by the nations of America at the recent Buenos Aires Conference, and still in agreement with the said conventions, which constitute the highest example of Pan American concord and solidarity, the Dominican Government will bear in mind the lofty purpose of those treaties and will subject its conduct at all times to the stipulations of the same.

I avail myself [etc.]

RAFAEL L. TRUJILLO

738.39/110 : Telegram

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

CIUDAD TRUJILLO, November 17, 1937—noon.

[Received 1:30 p. m.]

46. The message from the President of Mexico was received this morning and replied to in identic terms with the answer sent President Roosevelt.

NORWEB

738.39/200a : Circular telegram

The Secretary of State to All Diplomatic Missions in the American Republics Except Cuba, the Dominican Republic, Haiti, and Mexico

WASHINGTON, December 14, 1937—7 p. m.

You are requested to transmit the following note to the Minister for Foreign Affairs of the Government to which you are accredited :

"I have been instructed to present to Your Excellency the following statement :

² See Department of State Conference Series No. 33: *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. 227, 228 (paragraph numbered 2).

"At the invitation of the President of the Republic of Haiti, the Presidents of the Republics of Cuba, Mexico and the United States tendered their good offices to the President of the Dominican Republic and the President of Haiti with a view to seeking a pacific solution of the unfortunate dispute which had arisen between these two American nations.

"In tendering this friendly assistance, the three invited governments believed that they were acting in accordance with the traditional desire for peace of our New World and in strict conformity with the spirit displayed by all the American Republics in the Inter-American Conference for the Maintenance of Peace recently held at Buenos Aires.

"On November 15, the President of the Dominican Republic replied to the Presidents of Cuba and of the United States, and subsequently in identic terms to the President of Mexico, professing satisfaction at the tender of good offices but reserving action pending receipt of information as to the grounds upon which the Haitian Government based its request to the three invited governments. The President of the Dominican Republic added that upon learning the point which the Haitian Government considered to be the subject of controversy the Dominican Government would hasten to define its line of action.

"Although the Haitian Minister in Ciudad Trujillo had communicated to the Dominican Government the reasons motivating the invitation of the President of Haiti for good offices, the Ministers of Cuba and of the United States at Ciudad Trujillo (there being no Mexican diplomatic representative there) on November 18 requested an interview with the President of the Dominican Republic to deliver to him a copy in translation of the original invitation from the President of Haiti requesting the good offices of the three friendly governments; and they were accorded this interview on November 22.

"Meanwhile, the President of the Dominican Republic on November 20, appointed three special envoys to the invited governments to assist the already regularly accredited Ministers then resident at the capitals of those nations.

"Shortly after the arrival in Washington of the Dominican special envoys to the United States and to Mexico, and upon the initiative of the Dominican Government, informal and confidential conversations were held at the Mexican Embassy on December 2 and 3 between these two special envoys and the Dominican Minister in Washington representing the Dominican Government, the Minister for Foreign Affairs of Haiti and the Haitian Minister in Washington representing the Haitian Government, and the Mexican Ambassador, the Cuban Chargé d'Affaires and the Under Secretary of State of the United States of America representing the three invited governments.

"After hearing an ample exposition of the points of view of the two governments party to the dispute, the representatives of the three invited governments arrived at the following conclusions: (1) that regrettable incidents involving the loss of life of an undetermined number of Haitian citizens had occurred in the Dominican Republic; (2) that direct negotiation between the two governments concerned had thus far been unproductive; (3) that negotiation by means of

informal conversations participated in by the three invited powers had likewise been unproductive; and (4) that the incidents had assumed an international aspect.

"In connection with point (3) above, the representatives of the invited governments had suggested that if the Dominican Government should accept the formal tender of good offices, a Commission composed of representatives to be designated by the three invited governments should be constituted.

"This Commission was to have proceeded to Port-au-Prince to obtain information which the Haitian Government might have desired to furnish for the purpose of assisting the Dominican authorities to clarify the facts. The Commission would then have proceeded to Ciudad Trujillo there to remain until an investigation to have been undertaken exclusively by the Dominican authorities had in the opinion of the Commission itself been terminated.

"This investigation would have included an inquiry in particular into every one of the cases covered in the information proffered by the Haitian Government to the International Commission. A report of this investigation would have been communicated in full to the Commission.

"On behalf of the Government of Haiti, the Haitian Minister for Foreign Affairs on December 3 formally accepted the proposal as outlined above. The Dominican representatives agreed to communicate the proposal to their government immediately and to meet on December 8, when they would be prepared to communicate the reply of the Dominican Government.

"At the meeting on December 8, the representatives of the Dominican Republic stated that they had as yet received no instructions and requested a postponement, giving formal assurances that they would have instructions on December 10 or the morning of December 11 at the latest.

"On December 11, the Dominican Delegation presented an extensive memorandum, in which it set forth its points of view, to the effect that the request for good offices was without justification and that the formula, presented by the representatives of the three invited powers, should be replaced by a program which the Dominican Government submitted for the consideration of the Haitian Government; a program which provided:

"(1) Reaffirmation by the two governments of the diplomatic agreement of October 15, 1937.

"(2) Continuation of the investigation already inaugurated and greatly advanced by the Dominican Government.

"Guarantees would be given which, in the opinion of the Dominican Government, would suffice to satisfy the Haitian Government.

"The representatives of the three invited governments limited themselves to transmitting to the Minister of Haiti the memorandum mentioned above.

"The representatives of the three invited governments, after mature deliberation, came to the conclusion that the incident in question had become a factor susceptible of disturbing the peace of the American continent. It will be recalled in this connection that the 21 American Republics declared at the Inter-American Conference for

the Maintenance of Peace "that every act susceptible of disturbing the peace of America affects each and every one of them".³

"The representatives of the three governments, anticipating that the Government of Haiti would not accept the proposal offered by the Dominican Government, recommended to the Minister of Haiti for the information of his Government that the Government of Haiti take every possible means of avoiding measures tending to aggravate the situation, and that the Government of Haiti resort to the international treaties in force between the Dominican Government and the Republic of Haiti.

"On the 14th of December the Government of Haiti stated that it had invoked the Gondra Treaty of 1923 and the Convention on Conciliation of 1929.⁴ The Governments of Cuba, Mexico, and the United States trust that the procedure contained in the Inter-American peace instruments resorted to by the Haitian Government may obtain a satisfactory solution of the controversy, the notice of which would undoubtedly be greeted with sincere gratification by all of the American Republics.'"

HULL

738.39/219 : Telegram

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

WASHINGTON, December 20, 1937—2 p. m.

78. On December 18 the President received the following telegram from the President of the Dominican Republic:

"I have the honor to state to Your Excellency that as the Haitian Government has had recourse to the Permanent Commission instituted by the Gondra Pact, in its duties of conciliation, for the settlement of the questions in connection with which it asked Your Excellency and Their Excellencies President Cardenas, of the United States of Mexico, and Laredo Bru of the Republic of Cuba, to exercise your good offices before my Government, there is now no absence of grounds for seeking the formula for friendly cooperation requested by His Excellency the President of Haiti. My Government will concur in the conciliation procedure initiated by Haiti, with the same desire it has always cherished of giving the Government and people of Haiti the most complete satisfaction with regard to any legitimate claim that they may present on the ground of the regrettable and regretted incidents that occurred in Dominican territory early in October. I can thus assure Your Excellency that my Government will not give the slightest ground for a disturbance of the peace of America, in the preservation of which all the peoples of

³ From resolution XXVII, Declaration of Principles of Inter-American Solidarity and Co-operation, *Report of the Delegation*, pp. 227, 228.

⁴ The treaty between the United States and other American Republics signed at Santiago, May 3, 1923, *Foreign Relations*, 1923, vol. 1, p. 308, is known as the Gondra Treaty. It was supplemented by the General Convention of Inter-American Conciliation, signed at Washington, January 5, 1929, *ibid.*, 1929, vol. 1, p. 653.

the New World have so great a legitimate interest and which constitutes the lofty and noble concern of Your Excellency. Permit me therefore, Excellency, to express to you the satisfaction and the gratitude of my people, those of my Government, and those of myself personally, for the noble efforts made by Your Excellency and your Government to prevent the situation between the Dominican and Haitian Governments from being converted, because of the frontier incidents, into a factor capable of disturbing the peace of America. I am, etc."

The President has this morning sent the following telegram in reply:

"I have the honor to acknowledge the receipt of Your Excellency's telegram advising me that inasmuch as the Haitian Government has had recourse to the peace procedure provided for in the Gondra Treaty of 1923 and in the Conciliation Convention of 1929 for the purpose of finding a peaceful solution of the controversy which unfortunately exists between Your Excellency's Government and the Government of Haiti, the Government of the Dominican Republic will take part in the procedure invoked by the Government of Haiti.

Permit me further to express my gratification by reason of Your Excellency's statement that the Government of the Dominican Republic will not give the slightest ground for a disturbance of the peace of America, in the preservation of which all the peoples of the New World have so great and legitimate an interest.

I extend to Your Excellency my most sincere wishes that the controversy which regrettably exists between two sister republics may obtain a rapid, just, and pacific solution through the utilization of the inter-American peace instruments to which they have now announced their determination to have recourse. I am, etc."

You may desire at an appropriate opportunity to advise President Vincent of the texts of these two messages.

HULL

PROJECT BY ARGENTINA FOR A MULTILATERAL CONVENTION ON THE RIGHT OF ASYLUM

710.Asylum/1 : Telegram

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

BUENOS AIRES, July 27, 1937—5 p. m.

[Received 8:40 p. m.]

113. The Minister for Foreign Affairs invited all local chiefs of mission to his office today and explained to them separately in turn that he was sending to them for transmission to their Governments with a view to securing their favorable action a treaty project relating to asylum in missions. He said this was a matter that might properly come before the 1938 Conference in Lima¹ but that time pressed, et cetera.

He spoke to me at some length concerning the aims and ideals set forth in his project with particular reference to its application to conditions in Spain² and said great effect would be given to the proposed treaty by our adherence. I inquired if this proposed convention was along the lines of that discussed at the Montevideo Conference; he said it was an elaboration of it. I then briefly referred to the well-known attitude of our Government on the subject of asylum adding that I would however promptly communicate with my Government.

It is hoped to send full text by air mail on the 29th.

WEDDELL

710.Asylum/7

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

No. 1701

BUENOS AIRES, August 10, 1937.

[Received August 19.]

SIR: I have the honor to refer to my despatch No. 1686 of July 29,³ with which was forwarded in original and translation the text of the proposed convention on the right of asylum which has been drafted by the Argentine Minister for Foreign Affairs.

The translation referred to was prepared by the Embassy, which has now received from the Foreign Office an official English trans-

¹ See pp. 1 ff.

² See vol. I, pp. 215 ff.

³ Not printed.

lation which is forwarded herewith. This text has been compared with the one prepared by the Embassy and has been found to be substantially in agreement with the latter.

Respectfully yours,

ALEXANDER W. WEDDELL

[Enclosure]

The Argentine Ministry for Foreign Affairs to the American Embassy

DRAFT CONVENTION ON THE RIGHT OF ASYLUM ⁴

The Governments of aware of the necessity of fixing the rules they should observe in their mutual relations as regards the granting of political asylum;

Bearing in mind the instruments approved with that object at Montevideo, in February 1889, on concluding the treaty on international penal law at the South American Congress of Private International Law;⁵ the provisions set forth in the draft convention number 10 approved in March 1927 at Rio de Janeiro by the International Board of American Jurisconsults;⁶ the Convention approved by the Sixth International American Conference met at Havana in January and February 1928,⁷ and the amendments made to its text by the Seventh International American Conference met at Montevideo in December 1933;⁸

And with the object of coordinating the different treaties in force with the practices followed as regards the right of asylum and the juridical status of the political refugees;

Have resolved to conclude the present convention, and accordingly have appointed as their plenipotentiaries:

The President of

The President of

Who, having communicated their respective full powers, found to be in due order, have agreed as follows:

⁴ Printed in Argentine Republic, Ministry of Foreign Affairs and Worship, *Project of Convention on the Right of Asylum* (Buenos Aires, 1937), p. 1.

⁵ Signed at Montevideo, January 23, 1889, by Argentina, Bolivia, Paraguay, Peru, and Uruguay. For text, see *Tratados Sobre Derecho Internacional Privado Celebrados por el Congreso Sudamericano de Montevideo y Sancionados por la Honorable Asamblea General Legislativa de la República Oriental del Uruguay* (Montevideo, 1901), pp. 27-43; and *Tratados Sobre Derecho Internacional Privado Celebrados en el Congreso Sud-Americano de Montevideo* (Montevideo, 1911), pp. 25-40.

⁶ See *Foreign Relations*, 1927, vol. I, p. 387.

⁷ See *Report of the Delegates of the United States of America to the Sixth International Conference of American States Held at Habana, Cuba, January 16 to February 20, 1928*, with appendices (Washington, Government Printing Office, 1928), pp. 19, 225.

⁸ See Department of State Conference Series No. 19: *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), pp. 21, 141.

CHAPTER I—*Internal Asylum*

ARTICLE I. Political asylum may be granted to all persons, whatever their nationality might be, without impairing the right to protection which the State they belong to, owes to such persons.

ARTICLE II. Asylum can only be granted in the embassies, legations, warships, military encampments or aircrafts, and it is accorded exclusively in cases of political offenses or causes.

The heads of mission may also receive refugees in their private residences, whenever they are not living at the embassy or legation.

ARTICLE III. Asylum shall not be granted to those accused of common offenses during proper legal proceedings, or who have been condemned by the common courts.

The determination of the causes which give rise to the asylum belongs to the State granting it. To this effect, principal account should be taken of the circumstances giving rise to the asylum, as well as the political motive in the concurrent offenses. Terrorists shall not profit by the asylum.

Asylum shall not be granted to army and navy deserters. In case of armed rebellion, account should be taken of the fact of their non appearance, and whether it has any political significance.

ARTICLE IV. The diplomatic agent or commander granting the asylum shall immediately communicate the names of the refugees to the Ministry of Foreign Affairs of the State where the event took place, or to the administrative authority of the locality, if it occurred outside the capital, unless serious circumstances made this materially impossible, or communication dangerous for the security of the refugees.

ARTICLE V. While the asylum lasts, the refugees shall not be allowed to do any acts that endanger the public order.

The diplomatic agents or commanders shall require from the refugees their personal data and their promise not to hold communications with the exterior without their expressed approval. Should they refuse or violate any of these conditions, the diplomatic agent or commander shall immediately cause the asylum to cease.

ARTICLE VI. The government of the State may require that the refugee be placed outside the national territory, as soon as possible; and the diplomatic agent or commander who has granted the asylum may on his part demand the necessary guarantees in order that the refugee may leave the country, the inviolability of his person being duly respected. Should those guarantees not exist, the evacuation may be put off until the local authorities facilitate them.

ARTICLE VII. Once the refugees have left the country, they may not be landed in any part of the same. In the case that an ex-refugee returned to that country to take part in the movement that caused the

asylum to be granted, it shall not be granted again by any of the High Contracting Parties.

ARTICLE VIII. When the number of refugees exceed the normal capacity of the places of refuge set down in Article II, the diplomatic agents or commanders may provide other places, under the protection of their flag for their shelter and lodging. In such case they have to ask for the consent of the authorities.

ARTICLE IX. Warships or military aircrafts which are temporary in arsenals or workshops for repairs, shall not give shelter to those who might take refuge in them.

CHAPTER II—*External Asylum*

ARTICLE X. The asylum in the territory of the High Contracting Parties is inviolable as regards those persecuted for political offenses or reasons; but the country of refuge is obliged to prevent the refugees from acting in its territory in a manner that may endanger the public peace of the country from which they come.

The political refugees shall not be allowed to set up committees or boards, which have evidently been established for the purpose of promoting or furthering disturbances of the established order in any of the territories of the Contracting Parties. Such boards or committees shall be dissolved, once their subversive nature has been verified by the authorities of the State in which they are.

The propagation of ideas shall be ruled according to the legal provisions of the country of refuge.

ARTICLE XI. On the request of the State concerned, the country which has granted asylum shall keep watch over and remove to a prudent distance of its frontiers those political emigrants who were notoriously known as leaders of a subversion, as well as those intending to join it.

The appreciation of the proof set forth by the state requiring it and the prudential character of the distance from the frontiers shall for the effects of the confinement depend on the criterium of the authorities of the required State.

ARTICLE XII. The various expenses incurred by the confinement of political refugees or emigrants shall be met by the State asking for it. An amount, not higher than the minimum salary fixed by local laws or customs, shall be settled for the maintenance of those confined.

ARTICLE XIII. The political refugees may ask permission to leave the territory from the Government of the State in which they are. This shall be granted on condition they do not return to the country where they came from and having previously reported to the Government concerned.

CHAPTER III—*General Provisions*

ARTICLE XIV. In case of dissidence on the application of political asylum, the Government of the High Contracting Parties shall consult between themselves in order to arrive at a friendly solution of the controversy, which it has not been possible to settle through direct negotiation.

ARTICLE XV. Any State not signatory to this Convention may adhere to it by sending the appropriate instrument to the Ministry of Foreign Affairs of the Argentine Republic, which will notify the other High Contracting Parties through diplomatic channels.

ARTICLE XVI. The present Convention shall be ratified by the High Contracting Parties according to their constitutional procedures.

The original Convention and the instruments of ratification shall be deposited in the Ministry of Foreign Affairs of the Argentine Republic, which shall communicate the ratifications to the other Contracting States through diplomatic channels. The Convention shall enter into force among the High Contracting Parties in the order in which they have deposited their ratifications.

ARTICLE XVII. This Convention shall be in force for an indefinite period, but it may be denounced by two years' previous notice, at the expiration of which it shall cease in its effects as regards the denouncing State but it shall remain in force as regards the other signatory States. Notice of denunciation shall be addressed to the Ministry of Foreign Affairs of the Argentine Republic which shall transmit it to the other Contracting States.

In witness whereof the above mentioned Plenipotentiaries have signed the present Convention in Spanish and and stamp their respective seals.

Done at Buenos Aires this day of the month of nineteen hundred and thirty seven.

710. Asylum/15

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

No. 650

WASHINGTON, November 2, 1937.

SIR: The Department acknowledges the receipt of despatch no. 1686 of July 29, 1937* enclosing a copy of a proposed convention on the right of asylum prepared by the Argentine Minister for Foreign Affairs. Accompanying the draft convention was the text of a note dated July 27, 1937 addressed to you by the Minister for For-

* Not printed.

eign Affairs,¹⁰ setting forth the reasons which induced the Argentine authorities to prepare this project and requesting that you obtain the view of your Government with respect thereto.

The Department has given careful consideration to the note of the Minister for Foreign Affairs and the draft "Convention on the Right of Asylum" transmitted therewith, and encloses a draft note in reply which you are requested, if no objection is perceived, to present in proper form to the Minister for Foreign Affairs.

Very truly yours,

SUMNER WELLES

[Enclosure]

Draft Note From the American Ambassador (Weddell) to the Argentine Minister for Foreign Affairs (Saavedra Lamas)

EXCELLENCY: I have the honor to refer to Your Excellency's note of July 27, 1937 transmitting a draft "Convention on the Right of Asylum" and requesting that I obtain the opinion of my Government with respect thereto. Copies of Your Excellency's note under reference and its enclosure were duly submitted to my Government, and I have now been authorized to submit the following views on the project in question.

The Government of the United States of America views with profound sympathy all sincere efforts directed towards the establishment of relations between nations on an orderly and civilized basis consistent with the basic principles of international law and with the higher ideals of humanitarianism. It is in such a spirit that my Government has given careful consideration to the provisions of the draft convention on asylum which has been submitted to it for study, particularly in view of the distinguished sponsorship of this new proposal, and the noble motives which have inspired it. With respect to the basic objective of clarifying the problems relating to the general subject of asylum, and with respect to the desirability of taking all practical measures for the promotion of cultured and civilized human relations, there can be no disagreement. However, with respect to the most feasible means for achieving these desirable ends, my Government regrets to observe that its considered policy is one which would render it difficult to adhere to the provisions set forth in the proposed convention.

My Government feels that the recognition of the so-called right of asylum on such broad terms as those set forth in the draft convention would involve an extension of the traditional immunities and priv-

¹⁰ Printed in *Project of Convention on the Right of Asylum*, p. 7.

ileges enjoyed by diplomatic representatives transcending the original purposes for which such immunities and privileges were created, namely, to accord full protection and freedom from interference to the diplomatic representatives of one state within the territorial jurisdiction of another, with a view to promoting peaceful and orderly relations between those states. For these privileges and immunities to be extended in the manner contemplated by the proposed convention might give rise to certain complications which, in the opinion of my Government, might run counter to the basic objective contemplated.

As Your Excellency is aware, the point of view set forth above is consistent with the traditional policy of the Government of the United States of America. It will be recalled that at the Sixth International Conference of American States, which convened at Habana, Cuba, in 1928, there was adopted a convention fixing the rules for the granting of asylum. In signing this convention on behalf of its Government, the Delegation of the United States of America made the following specific reservation:

"The delegation of the United States of America, in signing the present convention, establishes an explicit reservation, placing on record that the United States does not recognize or subscribe to as part of international law, the so-called doctrine of asylum."¹¹

Subsequently at the Seventh International Conference of American States, which convened at Montevideo, Uruguay, in 1933, there was presented to the Conference for approval a "Convention on Political Asylum". With respect to this convention the Delegation of the United States of America made the following declaration:

"Since the United States of America does not recognize or subscribe to, as part of international law, the doctrine of asylum, the delegation of the United States of America refrains from signing the present Convention on Political Asylum."¹²

It is the sincere desire of my Government to consolidate, so far as possible its traditional policy with such agreements as may be made between the other American states. However, in the light of the considerations set forth above, which are believed to be in accord with public opinion in my country, the Government of the United States of America finds itself regretfully unable to agree to the draft "Convention on the Right of Asylum."

Accept [etc.]

¹¹ *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, p. 227.

¹² *Report of the Delegates of the United States of America to the Seventh International Conference of American States*, p. 144.

PROPOSAL BY THE UNITED STATES TO LEASE DESTROYERS TO THE AMERICAN REPUBLICS FOR TRAINING PURPOSES

810.34 Leasing/3a

*The Secretary of State to Senator Key Pittman*¹

WASHINGTON, August 5, 1937.

MY DEAR SENATOR PITTMAN: During the last four and one-half years the Administration has been making a determined effort to place the relations of the United States with the other American Republics on a solid basis of friendship, mutual respect and fruitful cooperation. The result of this effort has been extremely gratifying. The American Republics which heretofore have viewed the United States with suspicion and even distrust today hold the United States as a friend and real neighbor, sensitive to their rights and interests and desirous of cooperating with them to the fullest measure.

Indicative of this growing friendship, which is one of the most heartening developments in our foreign relations, have been the numerous requests for friendly assistance which have been received from the American Republics. We have been requested to loan the services of technical experts or to give technical advice regarding a wide range of subjects, such as highway construction, education, agriculture, government finance, sanitation, aviation, et cetera, and whenever appropriate we have been glad to comply with these requests. In the present letter I should like to present you with information regarding a somewhat different type of request and to lay before you the views of the President and bespeak for them your interest and cooperation.

Recently the Government of Brazil has informed this Government of its increasing concern with certain tendencies of the world political situation. The desire on the part of some nations for access to raw materials, and the forceful action taken by those nations to consummate these desires, has made Brazil, a country of vast territory and relatively small population, particularly apprehensive. The Government, therefore, has thought it the part of prudence to improve its relatively modest national defense, but being deficient in trained military or naval personnel and equipment, it finds its task a considerable one.

¹ Chairman, Senate Committee on Foreign Relations.

With respect to naval defense, the Brazilian Government is constructing certain vessels and purchasing others abroad. Upon the construction or delivery of these vessels, the Government will be the possessor of what it considers to be necessary naval material, but, unless steps are taken meanwhile, there will be a dearth of trained personnel to operate its ships. In order to remedy this deficiency the Government of Brazil has inquired whether the Government of the United States would be disposed to lease six of its decommissioned destroyers until its own vessels are ready.

This request of the Government of Brazil has had the very careful consideration of the President, of the Navy Department and of this Department. The President believes, and his views are shared by the two executive departments concerned, that there are two weighty reasons which commend the proposal. In the first place, if the governments of the other countries of this hemisphere find it necessary to turn to foreign governments for assistance in a matter of this character, it would be preferable, for obvious reasons, that such assistance be extended by the United States rather than by some other foreign government. Secondly, it would appear to be in the interest of this country were its over-age vessels now decommissioned because of the expense involved to be kept in running order and available for instant use, which would be the case if they were leased under the proper terms and conditions to other countries of this hemisphere. These over-age vessels are being retained by the Navy Department at the present time only because of their value in case of an emergency, but their value is greatly lessened because it requires approximately two months working at top speed twenty-four hours a day properly to recommission vessels which have been retired from active service. For these principal reasons, the President is disposed to consider favorably the Brazilian request, it being understood, of course, that no such equipment would be loaned by this Government except when the public interests rendered such a course advisable, and when the equipment in question could be spared without any impairment of the defense requirements of the United States.

In order that this Government may be in a position to take such action as that indicated above, the President has requested me to submit for the consideration and study of your Committee a draft resolution which will authorize him under certain conditions to loan destroyers to the American Republics. You will observe that such action would be predicated upon the application of the foreign government concerned, and would be authorized whenever, in the discretion of the President, the public interests rendered such a course advisable. In Section 2 of the draft resolution it is provided that there shall be received as consideration for the lease of such vessels an amount equivalent to the total cost of marine insurance on the vessels for the entire

period of the lease. It is understood, of course, that this Government would not proceed to make available any of its naval vessels to Brazil without making a similar offer to the other countries of this hemisphere.

At the President's direction, I am addressing similar letters to the Chairmen of the House Committee on Foreign Affairs, the Senate Committee on Naval Affairs and the House Committee on Naval Affairs. The President would appreciate your conferring with the Chairman of these other Committees, and if you concur in his views to arrange for immediate consideration by the Congress of the attached resolution, which it is hoped may be adopted at this session of Congress.

Sincerely yours,

CORDELL HULL

[Enclosure]

Draft of Joint Resolution

A JOINT RESOLUTION

AUTHORIZING THE PRESIDENT TO LEASE DESTROYERS TO THE AMERICAN
REPUBLICS

RESOLVED, That the President of the United States be, and he is hereby authorized, upon application from the foreign governments concerned, and whenever in his discretion the public interests render such a course advisable, to lease destroyers to the governments of the American republics under such terms and conditions as he may prescribe.

Sec. 2. As consideration for such lease the United States shall be paid an amount equivalent to the total cost of marine insurance on the vessels involved for the entire period of the lease, which amount shall not be covered into the Treasury of the United States but shall under the direction of the President of the United States be expended for the purpose of obtaining such insurance.

810.34 Leasing/2a : Circular telegram

The Secretary of State to the Diplomatic Missions in Argentina, Chile, Colombia, Ecuador, Peru, Mexico, Uruguay, and Venezuela

WASHINGTON, August 9, 1937—6 p. m.

At the request of the Administration there was introduced in the Senate on Saturday a joint resolution worded as follows:

"That the President of the United States be, and he is hereby authorized, upon application from the foreign governments concerned, and whenever in his discretion the public interests render such a course advisable, to lease destroyers to the governments of the American republics under such terms and conditions as he may prescribe."

In order to avoid any possible misinterpretation of the scope and intent of this suggested resolution, the Department desires you to obtain immediately an interview with the Minister for Foreign Affairs and advise him as follows:

1. That as will be seen from the text of this pending resolution, the Government of the United States, should the powers requested be granted by the Congress to the President, will make available on equal terms to all of the American republics possessing naval forces the facilities referred to in this resolution should they desire to avail themselves of them.

2. That should any contract be entered into by the United States with any American republic providing for the lease of destroyers for training purposes, the contract will contain a recapture clause making it possible for the United States at any moment to obtain the return of the destroyers so leased. Upon the signature of such contract the United States will declare it to be its policy that it will in accordance with the provisions of such clause request the immediate return of such vessels in the event that hostilities should break out between the republic leasing such destroyers and any foreign government with which the United States is at peace. This Government will further announce as its policy that it will request the return of the destroyers leased in the contingency that the continued use of such destroyers by the Government leasing them would in any other way be contrary to the domestic neutrality legislation or the international obligations of the United States.

3. In view of the stipulations as set forth in point 2, the United States does not consider that the lease of destroyers as provided for in the pending resolution would be in contravention of the Naval Treaty of London.² It intends, however, before entering into any contract with an American republic for the rental of destroyers to communicate its intentions to the other signatories of the London Naval Treaty in order that it may communicate to them its view that such arrangement would contravene neither the spirit nor the letter of this Treaty.

Inasmuch as the press has carried stories relating to the pending resolution which would give the impression that the Government of the United States is solely interested in leasing destroyers to Brazil and since this erroneous version may readily give rise to a misconception of the policy of this Government, you are requested to make entirely clear the points above set forth to the Government to which you are accredited at the earliest opportunity. It is desired that you telegraph any statements which may be made to you by the Minister for Foreign Affairs with regard thereto.³

HULL

² Signed at London, March 25, 1936, Department of State Treaty Series No. 919, or 50 Stat. 1363; for correspondence on the London Naval Conference, see *Foreign Relations*, 1936, vol. I, pp. 22 ff.

³ Replies to this circular telegram and to that of August 12, 6 p. m., p. 157, which are not printed here, indicated that the respective Governments either did not object to the proposed lease of destroyers or did not consider it a matter which concerned them.

810.34 Leasing/5 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, August 11 [10], 1937—5 p. m.

[Received 7:30 p. m.]

83. Acting under the Department's instruction of August 9, 6 p. m. I today presented the Minister for Foreign Affairs ⁴ an *aide-mémoire* embodying the contents of the Department's message. The Foreign Minister had been considering the matter as reported in the press and said that while it was to be expected that the proposal would be criticized in Europe he saw nothing in it to cause any apprehension in Latin America. He confessed that while he did not understand the reason for the proposal he saw no reason for distrusting the motive of the United States. He took occasion to express even more cordially than in any previous conversation the confidence of himself and of his Government in the sincere friendliness and good will of the United States toward the Latin American states.

The Minister for Foreign Affairs expressed deep concern based on current developments in Europe and Asia as to the peace of the world and reiterated several times his conviction that the hope of the future for this hemisphere depended upon its solidarity of aim and action. He stated that Venezuela would strongly advocate such solidarity at the Eighth Pan American Conference at Lima.⁵ Dr. Gil Borges mentioned Japanese immigration and economic expansion as one of the principal threats to Latin America but added that Japanese penetration was not now a serious problem in Venezuela.

The Foreign Minister was willing that I communicate to the Department without delay his reaction to the proposed resolution but said that he would also bring my *aide-mémoire* immediately to the attention of President Lopez Contreras.

NICHOLSON

810.34 Leasing/4 : Telegram

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

BUENOS AIRES, August 10, 1937—6 p. m.

[Received 8:15 p. m.]

128. For the Secretary and Under Secretary. Department's circular August 9, 6 p. m. I today communicated to the Minister for Foreign Affairs ⁶ its pertinent contents. The Minister inquired whether I was merely informing him or whether I desired his comments. I replied that I felt sure you would wish to have the frank expression of his opinion.

⁴ E. Gil Borges.⁵ See pp. 1 ff.⁶ Carlos Saavedra Lamas.

The Minister then said that the proposal of our administration as reported in newspaper despatches had caused a deep impression here and that he greatly regretted it, considered it a bad business and prejudicial to our policy in the Americas. He said he had been discussing the matter with the President and that he rather thought that Argentina would have to set up a Council of National Defense if the proposed leasing of destroyers should take effect in the case of Brazil since it would destroy existing naval equilibrium in this hemisphere.

The Minister said further that he had always tried to envisage our problems from our standpoint and had looked to us to carry the banner of high ideals and that this made him doubly regretful over what we proposed to do.

I inquired what he thought Brazil could do if we refused such help, assuming as I did that its statement of its fears was sincere, to which he replied that Brazil could look to all of America for her defense against European aggression, citing the case of Uruguay during the World War when assurances were given the Government of that country that all the resources of Argentina would be at its disposal in case of attack by Germany. He remarked in this connection that the financial resources of Argentina just now were very great.

In conclusion the Minister said that he would weigh the matter further and would be glad to give me a further expression of his opinion later.

WEDDELL

810.34 Leasing/7 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, August 10, 1937—6 p. m.

[Received 7:40 p. m.]

46. Department's rush August 9, 6 p. m. Explained clearly to the Minister for Foreign Affairs today the policy of our Government as regards the joint resolution for the leasing of destroyers to the Governments of the American Republics and handed him an informal memorandum embodying the observations given in sections 1, 2 and 3 of the Department's message.

The Minister assured me that no misconception as to the impartial spirit of our Government's attitude in this matter is entertained by his Government but said he believes it would be advisable to furnish the press of Santiago at once with the substance of the sections mentioned as a means of forestalling possible misunderstanding. To this I agreed.

PHILIP

810.34 Leasing/9 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, August 10, 1937—9 p. m.

[Received August 11—9:15 a. m.]

219. Department's circular telegram August 9, 6 p. m. I have today communicated to General Hay⁷ the three points given in your telegram and made it clear to him that these were given to avoid any possible misconception arising out of press reports.

The General had no official comment to make but told me entirely personally that he could foresee that if West Coast nations of South America availed of the opportunity to secure American destroyers the Japanese and some European nations would sit up and take notice. He wondered whether it would serve as a precedent for the furnishing of European war vessels to the contending factions in Spain.⁸ If the opportunity were availed of by numerous Latin American Republics he foresaw the possibility of complications.

BOAL

810.34 Leasing/20 : Telegram

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

RIO DE JANEIRO, August 12, 1937—2 p. m.

[Received 5:55 p. m.]

89. Embassy's telegram 88.⁹ The Minister for Foreign Affairs gave his announced collective interview to the press last night in order to clarify the viewpoint of the British [*Brazilian?*] Government with respect to the leasing of the destroyers. The Minister for Foreign Affairs made it clear that there has been nothing mysterious or occult in the Brazilian naval program and in this connection referred to the address delivered by the former Minister of Foreign Affairs Macedo Soares in 1936 on the occasion of the visit to Rio de Janeiro of the Argentine Minister of Marine (see paragraph No. 3 of Embassy's telegram under reference). He added that as is well known Brazil is rebuilding her fleet and that the loan of the destroyers in question is exclusively for the purpose of training the Brazilian Navy to man the new ships which are to be constructed but which will not be ready for delivery for some time to come.

The full text of the Minister's communiqué furnished to the press after the interview follows:

⁷ Eduardo Hay, Mexican Minister for Foreign Affairs.

⁸ See vol. I, pp. 215 ff.

⁹ August 11, 1 p. m., not printed.

"The unarmed condition of the Brazilian Navy which has not been renewed for many years, caused the Government of President Vargas, which is at present engaged in rebuilding our navy and supplying it with the material which it needs, as has been publicly announced in various addresses, to enter into negotiations with the American Government some months ago with a view to leasing some war vessels which could serve for training the personnel of our navy. The renovation of the Brazilian Navy will take considerable time due to the complexities and delays in constructions of this nature. In order that the Brazilian officers may develop their technical knowledge these destroyers will come from the United States on a lease basis and will supply the means for the study and handling of war vessels in accordance with our established naval program. In this manner the Brazilian officers will receive their training aboard American destroyers in preparation for the eventual but not immediate delivery of the ships which form part of the plan for the renewal of the fleet. These destroyers therefore will merely serve for the preparation of personnel of future ships and in no manner can any other purpose be attributed to them. The Minister for Foreign Affairs further stated on being questioned that he had absolutely received no complaints from any country with regard to the leasing of the destroyers".

The press continues to carry as front page news full despatches emanating from European and American sources concerning this subject. [Here follows report on press comment.]

SCOTTEN

810.34 Leasing/55

Memorandum by the Secretary of State of a Conversation With the British Ambassador (Lindsay)

[WASHINGTON,] August 12, 1937.

The British Ambassador called upon his own request and stated that he came on his own initiative and without any instructions from his Government. He proceeded to speak of the proposed loan to Brazil by this Government of certain obsolete torpedo destroyers for training purposes and said that in his judgment such loan would violate Article 22 of the Naval Treaty; that a new and, as he conceived it, dangerous practice of loaning naval war vessels to one government by another would be introduced; that this was calculated to create serious repercussions among certain countries in Europe, especially those signatory to the Naval Treaty.

I then proceeded to say to the Ambassador that my letter to the Senate Committee and our statements to the press have rather fully set out the facts of the proposal; that it has been the practice from time to time to permit students of South American governments to

come to this country and receive training on our naval vessels; that we send naval, and military, and many other kinds of experts to South American countries to train and otherwise serve their governments and their peoples; that there is not conceived to be any difference in principle between sending groups of students to this country to be trained in our naval vessels and sending an old vessel, out of commission, to Brazil or other South American countries solely for the training of their students and for no purpose of an objectionable or questionable nature; that other countries will do this identical thing, as did our German friends in the case of Turkey prior to the World War when Turkish commerce was largely taken over and even a secret treaty negotiated. I added that we did not want to see anything like this happen in South America. Finally, I said that, of course, while it is true that the Naval Treaty has been violated in many ways by most countries, we had no disposition ourselves to violate this or any other treaty and that we felt safe in our attitude with respect to its observation; that also we had, of course, planned to acquaint other signatories to the Naval Treaty with the proposal. This was practically the end of the conversation. The Ambassador held out rather definitely his personal opinion that the Treaty would be violated.

C[ORDELL] H[ULL]

810.34 Leasing/23a : Circular telegram

The Secretary of State to the Diplomatic Missions in Bolivia, Costa Rica, Cuba, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama, and Paraguay

WASHINGTON, August 12, 1937—6 p. m.

[Here follows text the same as in circular of August 9, 6 p. m., page 151, with addition of paragraph here printed inserted before final paragraph of that circular.]

4. The proposed leases of destroyers would under no circumstances be made in such instances or in such a manner as would serve to promote armaments races as among nations or to stimulate the establishment of naval forces in those countries which do not now have naval forces; nor would leases in any other respect be made in a way that would be inconsistent with the principles for the maintenance of peace and disarmament incorporated in the treaties, conventions and resolutions of the Inter-American Conference for the Maintenance of Peace at Buenos Aires,¹¹ and with the principles of this Govern-

¹¹ See Department of State Conference Series No. 33: *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.*

ment's foreign policy which I had occasion to summarize in my statement of July 16 last.¹²

HULL

810.34 Leasing/28 : Telegram

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

RIO DE JANEIRO, August 13, 1937—7 p. m.

[Received 8:19 p. m.]

93. From Ambassador Caffery.¹³ During my first call this afternoon upon the Minister of Foreign Affairs the latter, who had just returned from a conference with President Vargas, showed me a telegram from Aranha¹⁴ regarding Ambassador Espil's¹⁵ visit to the Department to set out his Government's point of view in regard to postponing the destroyer matter until the holding of a naval conference. Aranha recommends that, should the American Government agree with the point of view of the Argentine, Brazil should relinquish the project of obtaining the destroyers but should at the same time make it clear that Brazil cannot in any way admit the right of a third power to interfere in this question. The Minister then declared that he would at once telephone Aranha that the President and he agreed with him but he added significantly "we do not believe that the American Government will agree with the stand taken by Argentina". [Caffery.]

SCOTTEN

810.34 Leasing/40 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, August 14, 1937—9 a. m.

[Received 11:43 a. m.]

222. Department's circular August 9, 6 p. m. General Hay informs me confidentially that the Argentine Chargé d'Affaires has today approached him under instructions from his Government asking that his good offices be exercised informally to bring about a delay in passage of the joint resolution so that the Argentine Government may have time to work out the problem with our Government. Hay has asked me to inquire of the Department at approximately what date passage of the resolution is expected. He has told the Argentine Chargé d'Affaires of the recapture clause. He asked me whether

¹² Vol. I, p. 699.

¹³ Jefferson Caffery, appointed Ambassador to Brazil; Mr. Caffery presented his letters of credence on August 17.

¹⁴ Oswaldo Aranha, Brazilian Ambassador in the United States.

¹⁵ Felipe A. Espil, Argentine Ambassador in the United States.

there would be any objection to his communicating orally to the Chargé d'Affaires the substance of the numbered paragraphs in the Department's circular of August 9, 6 p. m.

I told him that I thought there would be no objection but would appreciate word from the Department by morning of Monday, August 16, if any objection exists so that I can advise him.

The Argentine Chargé d'Affaires asked General Hay for the Mexican Government's views on the entire matter. The General told him that he would have to consult with the President and thus postponed reply until early next week. He expressed his desire to deal with the matter in such a way as to be helpful to our Government.

There is an unconfirmed press report here that the resolution has been dropped.

BOAL

810.34 Leasing/33 : Telegram

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

RIO DE JANEIRO, August 14, 1937—6 p. m.

[Received 11:10 p. m.]

95. The Minister for Foreign Affairs called me to his office this afternoon and informed me that according to a telegram from Aranha the American Government has decided to leave the destroyer matter in suspense for the moment pending consultation with other governments. He added that, although Brazil knows that all of the other interested Governments, with the exception of Argentina, are favorable to the Brazilian point of view, the Brazilian Government is making appropriate representations to every Government in Latin America, through its representatives in each capital, with a view of having the various representatives of those Governments in Washington inform the State Department in precise terms of their Governments' approval of the Brazilian point of view. He explained that the Brazilian Government hopes through [this?] means to isolate Argentina. He added that an examination of the juridical arguments, put forward by Saavedra Lamas, has convinced his Government that those arguments are "worthless"; the Foreign Office is giving a communiqué to the press this evening which he is convinced will completely refute those arguments; this statement will be cabled to all Brazilian representatives in the Latin American capitals. (I am informed press associations are telegraphing full text of the communiqué.)

The Minister for Foreign Affairs then added that the question of whether Brazil receives the destroyers or not has become of secondary importance, what is of a great deal more importance to Brazil is the impression which would be created in the rest of the world if Argen-

tina or to put it more exactly one man in Argentina is able to dominate the rest of this continent. The Minister added that he particularly referred to Saavedra Lamas as he does not think that the latter represents the views of Argentina as a whole or of the Argentine Government. He concluded by stating that this whole question has become of "vital importance" to Brazil and that the Brazilian Government sincerely hopes that the United States will carry out what has already been agreed upon with Brazil.

SCOTTEN

810.34 Leasing/40 : Telegram

The Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, August 14, 1937—7 p. m.

169. Your 222, August 14, 9 a. m. Please express to General Hay the particular appreciation of this Government for his friendly message. He may, of course, communicate to the Chargé d'Affaires the text of the Department's circular of August 9, 6 p. m. You should advise him, however, in this connection, that this text was sent to all of the American Governments on that date so that the statements therein contained have already for some time been in the possession of the Argentine Government.

HULL

810.34 Leasing/53 : Telegram

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

RIO DE JANEIRO, August 17, 1937—6 p. m.

[Received August 17—5:12 p. m.]

102. For Welles.¹⁶ The Minister for Foreign Affairs informed me today that the Argentine Ambassador here had read to him a copy of the instructions which he said were sent to Espil by Saavedra Lamas. He instructed Espil to take up this matter directly with Secretary Hull, setting out that in his opinion the destroyer matter was a plot hatched by you, Aranha and President Vargas as part of a far reaching scheme to dominate the American continent.

CAFFERY

810.34 Leasing/51 : Telegram

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

RIO DE JANEIRO, August 17, 1937—7 p. m.

[Received August 17—5:35 p. m.]

103. The Minister for Foreign Affairs informed me today that President Vargas yesterday sent his chief military aide to see the

¹⁶ Sumner Welles, Under Secretary of State.

Argentine Ambassador with the request that he invite President Justo's attention to the fact that only 2 days before the Argentine Ambassador in Washington took up the destroyer question at the Department of State Saavedra Lamas had informed the Brazilian Ambassador in Buenos Aires that the Government of Argentina had no objection to the rental of the destroyers by Brazil.

CAFFERY

810.34 Leasing/54 : Telegram

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

RIO DE JANEIRO, August 17, 1937—8 p. m.
[Received 8:30 p. m.]

104. The Minister for Foreign Affairs has just informed me that the Brazilian Ambassador at Buenos Aires saw President Justo today in connection with the matter discussed in Embassy's telegram 103, but found him noncommittal; however, the President suggested and himself arranged by telephone an interview with Saavedra Lamas. The latter was adamant.

The Minister referred also to the draft joint statement¹⁷ sent here today by Aranha and said that Aranha had hoped the statement could be published in tomorrow morning's press. In view of the manifest importance of this statement and in view of the fact also that there are a number of garbles in the text of the draft he will not be able to have President Vargas consider it this evening; in fact he apprehends that President Vargas may require 3 or 4 days to study it. In any event he hopes that the statement can be published by Saturday.

CAFFERY

810.34 Leasing/57 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, August 18, 1937—11 a. m.
[Received 11:55 a. m.]

50. The Brazilian Ambassador informs me that he has been assured by the Chilean Foreign Minister that Chile entirely approves of the proposal to lease destroyers to Brazil. The Ambassador remarked that his Government is seeking an early decision in the matter as otherwise it will feel under the necessity of purchasing destroyers.

PHILIP

¹⁷ See circular telegram of August 19, 7 p. m., p. 162.

810.34 Leasing/60 : Telegram

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

BUENOS AIRES, August 18, 1937—4 p. m.

[Received 9:09 p. m.]

140. Referring to my 137, August 16, 5 p. m.,¹⁸ the decline in popular interest in the destroyer matter referred to therein appears to continue.

Today in an interview with the Minister for Foreign Affairs on an unrelated matter he brought up this subject. His words and manner seemed to me apologetic and as if chosen to leave the impression that he had only acted in the face of pressure brought by the Ministry of Marine. He mentioned that the officer referred to in the fourth paragraph of my 137 had been consulted by the editors of *La Nación* and had impressed on them the gravity and unfortunate nature of the American proposal; the flat contradiction here evidently will not be overlooked.

The Minister spoke at length of his attempts to smooth down and mitigate both official and popular discussion of the matter as serving no good purpose, asserting that through his active intervention he had prevented interpellations in the Senate which had been favored by a Socialist member "whom he greatly feared". He also spoke of his efforts with the local press to minimize publicity.

In emphasizing the local nature of the general leasing question which he thought contained potentialities of continental significance, he mentioned actual or potential reactions in Argentina's relations with Chile and Brazil and read me lengthy telegrams and letters from his Ambassador in Rio de Janeiro tending to demonstrate that the Brazilian Government had refused to allow his exhaustive press statement to be published; hence Brazilian criticism of his attitude was based on imperfect knowledge.

In conclusion he stated and restated his belief that with the passage of time and with the adjournment of the Argentine and American Congresses "a satisfactory solution" of the matter could be worked out.

WEDDELL

810.34 Leasing/69b : Circular telegram

The Secretary of State to All Diplomatic Missions in the American Republics Except Brazil

WASHINGTON, August 19, 1937—7 p. m.

The Department is issuing this afternoon for release in tomorrow morning's papers the text of a joint statement to be made by the Gov-

¹⁸ Not printed.

ernments of Brazil and of the United States. The following is the text of the release:¹⁹

"For many years past several governments of the American Republics have permitted officers from other American countries to receive instruction and training in their military or naval establishments. This form of reciprocal assistance became generalized long ago, and is today incorporated in the policy of cooperation between all of the American nations. The policy and principle involved in the proposal of the Government of the United States to lease at nominal cost to all other American nations alike destroyers already out of commission solely for training purposes are identical. Naturally speculation as to possible interpretations and abuses that could arise can be applicable to any law, principle, policy of government, or international practice.

When the United States was first advised by the Government of Brazil of its desire to secure temporarily certain destroyers of the United States already out of commission for training purposes both Governments were in entire accord that in order to avoid all possible misapprehension the vessels which might be leased should in no event be employed for combat and should be returned to the United States if at any time the continued use of such vessels by Brazil should prove to be in contravention of the international obligations of either Government. The two Governments were of the opinion after very full consideration that the proposal of the United States would be in entire harmony with its policy, welcomed in many previous instances by the governments of other American Republics, of lending its officers to them for instruction purposes or of receiving their officers for training in the naval vessels of the United States in American waters. The proposal envisaged, of course, merely the offer of a neighborly service to such of the other American nations as might desire it and in this way to promote understanding, friendliness, and mutually beneficial relationships between all of the American nations.

The Governments of Brazil and of the United States consider that they have played their full part in supporting the principles of the good neighbor policy since it was initiated and that they have shared in its development and in its increasingly widespread application, and therefore the two Governments feel all the more concerned for the safeguarding and further expansion of this relationship between the American Republics. To that end, while conscious of the absolute soundness of their position in the proposal above referred to, and of the harmony of that proposal with the essential features of the good neighbor policy as universally recognized, they have nevertheless no disposition to encourage international controversy relative to some entirely minor and temporary phase of that policy. At this critical moment in international relationships in other parts of the world, they consider that all governments should bend every effort towards the avoidance of the arousing of any form of dispute and should concentrate upon the creation of the foundations indispensable to the existence of world peace. The larger and all-important objectives of the recent Conference for the Maintenance of Peace at Buenos Aires should be uppermost in the minds of all of the American Gov-

¹⁹ Department of State, *Press Releases*, August 21, 1937, p. 162.

ernments and statesmen, and they should not permit themselves to be drawn into discussions about details or proposals of temporary application, no matter how beneficial they believe them to be.

The Governments of Brazil and of the United States are not disposed to enter into any controversy with respect to the pending proposal, nor to modify their understanding with regard to it, and their only regret is that a question of such limited importance should even for a few days be allowed to divert attention from the high ideals and the broad program which the good neighbor policy comprises.

The efforts of the two Governments in behalf of peace among the Americas and in behalf of world peace should be more than sufficient to make it clear to all other countries that they would deprecate the initiation or the pursuance of any policy which could legitimately be considered by the nations of the continent as in any way detrimental to the cause of inter-American friendship and understanding."

Please telegraph editorial and press comment subsequent to publication.²⁰

HULL

810.34 Leasing/73 : Telegram

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

BUENOS AIRES, August 20, 1937—5 p. m.

[Received 6:57 p. m.]

145. Department's circular August 19, 7 p. m. Joint statement is published in full and prominently in the local press as well as the statement of Argentine Ambassador in Brazil setting forth the attitude of his Government. Editorial comment on these two statements may be expected tomorrow.

La Razón in a very cordial and outspoken editorial last night entitled "Continental harmony has not been disturbed," states that the attitude of the United States in the destroyer matter cannot be regarded as anything but an impartial demonstration of good will towards the nations of America and is in no way a gesture initiating a new policy to bring about the formation of coalitions among American nations. Neither Brazil nor the United States desires such a state of affairs.

The Minister for Foreign Affairs sent me yesterday a lengthy *pro memoria* setting forth the chronology of events here with regard to the destroyer matter which seems a sort of apologia for his previous utterances. Translation by air mail.

From this document as well as from my conversation with the Minister and others, I gather that Argentine pique may be largely explained by the fact that this country was not consulted before the

²⁰ Replies generally not printed.

publication of the Walsh Resolution and the adoption of the principle of lending destroyers in the same way as naval officers. Now that this pique has subsided I incline to believe the Minister may probably be beginning to regret his impetuous press statements which, I am told, he now declares were made more as a jurist than as Minister for Foreign Affairs.

WEDDELL

810.34 Leasing/113

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

No. 1711

BUENOS AIRES, August 20, 1937.

[Received August 30.]

SIR: With reference to my telegram No. 145 of August 20, 5 p. m., I have the honor to enclose herewith a translation of a *pro-memoria* handed me on August 19 by the Argentine Minister for Foreign Affairs on the destroyer question. As careful a translation as possible has been made of a rather vague and disconnected document.

Respectfully yours,

ALEXANDER W. WEDDELL

[Enclosure—Translation]

The Argentine Minister for Foreign Affairs (Saavedra Lamas) to the American Ambassador (Weddell)

PRO-MEMORIA

The Argentine Government learned the news of the proposed lease of destroyers through the telegrams which were published by *La Nación* and *La Prensa* on the 8th instant. If it had been only a matter of a lease to Brazil, no one would have taken the liberty to discuss or consider it. But to the bilateral operation there was added an individual offer made to all the countries, as was done to Argentina. However, in view of its special sentiment with regard to Brazil which was placed only in the position of initiator of a question to which the United States had given a continental character, the Argentine Chancellery wished to abstain from expressing an opinion or from adopting an attitude in spite of the comments of the press which among us is absolutely free from any censorship and control.

In Washington on August 12 Mr. Hull stated to press correspondents that "no expression of disapproval of the projected lease of destroyers had been received from Argentina or any other nation" (see telegram from Washington in *La Prensa* August 13.)

On that same date August 12 Ambassador Espil stated in Washington that he did not even have instructions from his Government, and

that he was awaiting events in spite of numerous press reports and comment throughout the continent. Neither were instructions sent to Ambassador Cárcano in Rio de Janeiro to take steps to make inquiries which might in any way appear as an observation or protest.

The Chancellery was waiting for Brazil to publish information as it deemed suitable. On the 11th instant, the Brazilian Minister for Foreign Affairs, Pímentel Brandao, as reported in newspaper cable reports from Rio de Janeiro, summoned national and foreign press representatives to give them an explanation concerning the lease of destroyers. The Argentine press that same day (see *La Nación* August 12) stated that the Argentine Government would address a statement to Washington according to information and as a simple project. The newspaper version said textually: "Despite the silence observed as to the decision of the Executive Power, we were informed through reliable sources, that the Chancellery was ready to address a statement to the Department of State at Washington."

At the same time several Argentine legislators requested information from the press, and one of them, Senator José Heriberto Martínez, informed the Government that he was planning an interpellation which was agreed upon at a meeting of senators of various sectors. The Minister for Foreign Affairs requested and obtained the postponement of this interpellation, and this was also done by the President of the Republic who summoned the above-mentioned senator to his office because he wished to wait until the Brazilian and United States foreign offices should make whatever statements they might deem appropriate in view of press comments published throughout the continent.

The Argentine Government had to consider a Memorandum which had been delivered directly by the Ambassador of the United States in Buenos Aires, informing it of the proposed joint resolution which had been submitted to the United States Senate on August 7 stating "that as could be seen from the text of this pending resolution, the Government of the United States, should the powers requested be granted by the Congress to the President, would make available on equal terms to all of the American Republics possessing naval forces the facilities referred to in this resolution, should they desire to avail themselves of them"; the above-mentioned memorandum also referred to the terms under which the proposed operation would be effected. This memorandum was presented on August 10 and some of the above mentioned legislators were acquainted with it.

Under the circumstances, and for the sole purpose of replying to the offer conveyed in the communication from the United States, in considering the question in its continental aspect, the Chancellery sent instructions to the Ambassador at Washington on August 12.

Simultaneously with the postponement of the proposed interpellation which at a secret or public session might have caused a deeper stirring of opinion as already reflected in press comment in the various countries of the continent, and in order to clear the matter in Congress, the Chancellery resolved to summon press correspondents, just as the Brazilian Minister for Foreign Affairs had done on August 11. The object of the summons was not to issue an official communiqué or document, but to give explanations to newspaper representatives in accordance with their insistent request, in view of the requirements of public opinion and of the proposed interpellation, for not a word had so far been uttered by the Ministry for Foreign Affairs as was forthwith pointed out, i. e., that "these were the first statements made by the Argentine Chancellery in order that no one should suppose even for a minute that any feeling had prevailed other than deep friendship and sincerity concerning the Brazilian problem connected with the case." It was added further, "I consider that one of the achievements of our Government is the *rapprochement*, the better understanding and the sincere and loyal friendship which we have carried to the highest degree ever attained by diplomacy in the relations between Argentina and Brazil."

"The numerous treaties concluded", the Minister added, "within a short period which in other cases have been obtained after long years and which were negotiated almost simultaneously with the visits of Presidents Justo and Vargas, the firm support which we have given each other in our reciprocal initiatives; the deep rooted custom which has become a social rule, of having periodical visits of prominent men and groups of families, visits, which had never been exchanged as now, all this has contributed to establish between both countries a sentiment of true kinship. These very days when all this comment is circulating, both Chancelleries were preparing the ceremonies during which the two Presidents are shortly to inaugurate the monoliths to be the cornerstone of the international bridge planned some time ago and which will doubtless be a symbolical expression of reciprocal currents of every kind flowing from one country to the other in the future."

To this was added the following statement which was also published in the newspapers: "The fact that Brazil should increase its naval power availing itself of a legitimate right in order to meet an equally legitimate need, cannot but awaken in us the desire to lend our cooperation which, were it useful, we gladly would have offered. In any case we would have wished to rival with the nations which might have anticipated such an offer or lent such cooperation. There has undoubtedly been exaggeration in this respect and even distortion—in

the midst of the confusion which is so easily created—of our point of view concerning the acquisition of destroyers which does not imply an increase of naval power that could cause concern among us, for we would support such an increase with all our will if it were necessary.”

What is more, in order to prove his respect for the question insofar as it regards Brazil and to separate it from the necessary consideration of the continental phase of the matter, besides the direct offer received as conveyed in the statement of the United States, the Minister went on to say: “It is therefore well to make this clear. What caused and is causing our concern is the appearance of an unprecedented rule in our American relations which requires thorough consideration of its application to all the American Republics. I refer to the offer to lease warships to the twenty republics, an offer which was doubtless prompted by a noble purpose but which requires special study. Any regional problem must be entirely laid aside in order to concentrate attention solely on the point of interest to us: The pacifist continental phase of our collective relations with regard to this completely new method of developing the naval power of the countries of America, its scope, its consequences and its general application in the future.”

Before going on to consider the problem in its continental aspect and from a juridical point of view, the Minister ends this part of his statement, by insisting on definitely waiving all points relative to the agreement between the United States and Brazil, in order to avoid erroneous interpretations. He says therefore: “This public statement which, I repeat, is the first and only one I make on the subject, is intended to explain the views, the sentiment and the concern which prompt the attitude of the Argentine Government.”

“Let it then be understood that our Government has duly appreciated the reason given by the Government of the United States and Brazil to justify the projected lease of warships. It does not question the defensive needs mentioned, nor the peaceful training purpose for which the destroyers would be used. Its only point of view consists in permitting itself to consider the disadvantages which might result from the method of leasing warships if it were generally applied as a means of acquiring war material intended to strengthen the power of each country.”

As was reported in the newspapers, the legislators abandoned the idea of an interpellation when explanations were given to press correspondents and published in the respective newspapers.

On the 14th instant *La Nación* stated “Senators Palacios, Martinez and Gonzalez Iramain, who last Thursday had started conversations relative to the lease of a few warships to Brazil by the United States, with the purpose of considering whether or not the Senate should

take the initiative in order to know the opinion of the Executive Power on the subject, held another meeting in the red hall of the Senate, and resumed their comments.

"The first exchange of impressions indicated that the above-mentioned senators coincided in their favorable appreciation of the statements issued by the Minister for Foreign Affairs, and after this brief exchange of ideas it was tacitly agreed that it is not necessary, for the time being, for the Senate to take any action in this matter."

This resolution was made publicly known by the President of the Foreign Affairs Commission of the Chamber of Deputies.

810.34 Leasing/101 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

No. 696

SANTIAGO, August 20, 1937.

[Received August 26.]

SIR: With reference to my despatch No. 691 of the 13th instant²¹ and to other correspondence in regard to the question of leasing destroyers by the United States to Brazil and other Latin American Republics, I have the honor to transmit herewith a copy and translation of an *aide-mémoire*, or statement,²¹ handed to me on the 19th instant, by Señor Benjamin Cohen on behalf of the Minister of Foreign Affairs.

Señor Cohen stated that the Minister wished to express to me that his Government entertained no objection to the proposed leasing of destroyers and would be glad if I would convey this statement to my Government as a means of clarifying Chile's position in a matter which had occasioned such widespread comment in South America and as an informal reply to the information communicated by me to him in accordance with the Department's cabled circular instruction of August 9, 6 p. m. The statement has been given to the press of Santiago and appeared today, the 20th instant.

In the course of the conversation during his visit, Señor Cohen expressed his personal belief that the proposal to lease destroyers had attained its controversial importance largely as a result of two unforeseen factors: (1) the obstructive attitude assumed by Argentina and (2) the suggestion emanating from the press of the United States to the effect that the proposal might have arisen owing to the existence of some threat to Brazilian sovereignty from non-American sources.

²¹ Not printed.

With regard to the former, Cohen said he had heard that the proposal had been mentioned to the Argentine Government by the Brazilian Ambassador in Buenos Aires some time prior to its having been given publicity, and that the Brazilian representative had been given to understand then that it would not be viewed with disfavor in that quarter. He said also that it would appear that the Brazilian Government, which is now obtaining expressions of opinion regarding the proposal from the various Latin American States, is determined to bring the legality and the feasibility of the proposal to a successful issue.

I mention these remarks by an official of the Foreign Office to the Department as of casual interest only.

Generally speaking, the attitude of the Chilean press remains as previously reported—the governmental organs mildly favorable, *El Imparcial* and papers of the opposition very critical in their comments on the Joint Resolution.

With reference to my cable message No. 50 of August 18, 11 a. m., reporting a conversation with the Brazilian Ambassador, I beg to report that there is published in the Santiago press of today, the 20th instant, a statement handed to the Foreign Minister by the Brazilian Ambassador here. This statement was released by the Brazilian Government to the press of Rio de Janeiro on the 15th instant and doubtless is already known to the Department.

There has appeared also in the Santiago press this morning the joint statement by the Governments of the United States and Brazil which forms the subject of the Department's telegraphic circular of August 19, 7 p. m.

It is to be hoped that this frank announcement will not occasion a fresh outbreak of editorial fireworks so dear to the Latin American heart.

The Brazilian Ambassador has told me over the telephone that he has read the statement with very great pleasure. Other press news from the United States indicates that the Chairman of the Senate Committee on Naval Affairs has expressed the opinion that there is small probability of the proposal for the leasing of destroyers being approved by that body.

As of probable interest to the Department, I beg to transmit with this copies and translations of editorials on the question of the leasing of destroyers from *El Mercurio* of the 17th instant, *La Nación* of the 18th instant, *El Imparcial* and *La Hora* both of the 19th instant.²²

No editorial comment on the joint American-Brazilian statement has yet appeared here.

Respectfully yours,

HOFFMAN PHILIP

²² None reprinted.

810.34 Leasing/124

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

No. 9

RIO DE JANEIRO, August 24, 1937.

[Received August 31.]

SIR: Referring to recent reports concerning the possible lease of six United States destroyers to Brazil, I have the honor to report that the Minister for Foreign Affairs showed me yesterday a telegram from Dr. Rodriguez Alvarez, Brazilian representative on the Chaco Commission, which set out that the recent declaration issued jointly by the United States and Brazilian Governments had had an excellent effect at Buenos Aires. Dr. Rodriguez Alvarez added, however, that in his opinion further publicity in this matter should be avoided at this juncture. Dr. Pimentel Brandão remarked to me that the Brazilian Government concurred in that opinion.

Respectfully yours,

JEFFERSON CAFFERY

810.34 Leasing/108 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, August 27, 1937—6 p. m.

[Received 10:26 p. m.]

50. With reference to my telegram No. 46, August 12, 6 [8] p. m.²³ The Minister for Foreign Affairs has sent me a note reading in part as follows:

"The Government of Ecuador considers the said proposed resolution, in view of the terms under which the leasing would be made, as a practical application of the good neighbor policy. It believes that because of the purposes for which the vessels would be used the proposal signifies a desire that all of the American countries on equal terms can train efficient personnel to serve in their navies without this signifying a threat to anyone because it would be an offer which would be made to all on equal terms and because the conditions of returning the vessels in the event that a conflict breaks out, et cetera, prove the eagerness to maintain absolute neutrality.

In case that the proposal is approved Ecuador would be interested in leasing one or two vessels provided that the financial terms are satisfactory."

A résumé of the statement contained in the Department's circular August 19, 7 p. m., was published in the Guayaquil press. *El Telegrafo* of that city published an editorial defending the resolution and regretting that Argentina had opposed it since "for no reason

²³ Not printed.

could it be considered a hostile act against certain nations." The editorial concluded that if the resolution is approved Ecuador should take advantage of the offer which would be of invaluable assistance.

GONZALEZ

810.34 Leasing/159

The British Embassy to the Department of State

His Majesty's Government in the United Kingdom desire to place on record the following views with regard to the recent proposal for the leasing to Latin-American Republics of destroyers not at present in use by the United States Navy.

His Majesty's Government consider that if loans of vessels had been regarded as practical politics when Article XVIII of the Washington Treaty²⁴ was framed, provisions to cover that contingency would certainly have been inserted. Thus the loaning of ships appears to His Majesty's Government to constitute a violation of the spirit of Article 22 of the 1936 London Naval Treaty, which reproduces in substance the text of Article XVIII of the Washington Treaty.

As regards the destroyers which it is proposed to loan in the present instance, it is felt that even though they were to be used for training purposes and would not be employed as fighting ships, they would still be bound to retain their fighting qualities and potentialities, which a vessel intended for training purposes does not and never can possess, and must therefore, contrary to the provisions of Article 22, become a service vessel of war in a foreign navy. It would be hard to maintain that the destroyers would be completely converted into training ships, and thus lose all their fighting value, if they were only on loan and after a certain period of time had to be returned to the United States Government.

Apart from these considerations, His Majesty's Government view with much apprehension the serious consequences which might result for all concerned in the event of such a practice becoming at all general. The whole balance of naval power might be upset and it might become impossible to calculate the effective strength of the fleet of any given country. It was precisely such a sudden alteration of naval strength that the provisions in question were intended to avert.

WASHINGTON, September 13, 1937.

²⁴ Treaty between the United States of America, the British Empire, France, Italy, and Japan, signed at Washington, February 6, 1922, *Foreign Relations*, 1922, vol. I, pp. 247, 252.

810.34 Leasing/159

*Memorandum of Conversation, by the Chief of the Division of
European Affairs (Moffat)*

[WASHINGTON,] September 14, 1937.

The British Chargé d'Affaires, Mr. Victor Mallet, came in to see me today and said that whereas the British Government appreciated that no further action would be taken with regard to the leasing of over-age destroyers to Brazil for training purposes at any rate until after Congress had reconvened, nonetheless it felt that it must make, as a matter of record, a communication²⁵ setting forth the reasons why they felt that the proposed action was contrary to the spirit of Article 22 of the London Naval Treaty. He said that the note did not require an answer but urged that it be given full consideration.

PIERREPONT MOFFAT

810.34 Leasing/169

*The Secretary of State to Senator Gerald P. Nye*²⁶

WASHINGTON, December 7, 1937.

MY DEAR SENATOR NYE: I have received your letter of December 4²⁷ referring to the United Press despatch dated October 20 alleging that a contract leasing six United States destroyers to Brazil had been signed in Washington by the Brazilian Ambassador and by Mr. Sumner Welles, the Under Secretary of State. You say that absence of any word beyond this since that time has caused you to wonder as to the authenticity of this information and you ask that I advise you concerning the status of the matter at this time.

The United Press report to which you refer was based upon an article fabricated out of whole cloth by the Brazilian newspaper *O Jornal*.

As soon as the report was brought to Mr. Welles' attention, which was only a few hours after it had been published in the Brazilian paper above referred to, he issued a categorical denial to the press correspondents approximately in the following words:

"Not only has no contract for the leasing of over-age United States destroyers to Brazil been signed by the Brazilian Ambassador to the United States and by myself, or by any other official of this Government, but the possibility has not even been discussed. It would be

²⁵ *Supra*.

²⁶ Chairman, Special Committee Investigating the Munitions Industry.

²⁷ Not printed.

utterly impossible for any such contract to be signed until the necessary legislation authorizing such contract has been passed by the Congress of the United States."

This official denial of the report to which you refer was given considerable publicity in the press, but has evidently not come to your attention.

Believe me,

Yours very sincerely,

CORDELL HULL

COOPERATION OF THE UNITED STATES WITH OTHER
GOVERNMENTS IN THE CONSTRUCTION OF THE
INTER-AMERICAN HIGHWAY¹

810.154/1117

The Minister in Nicaragua (Long) to the Secretary of State

No. 385

MANAGUA, January 9, 1937.

[Received January 14.]

SIR: I have the honor to transmit herewith translation of a note No. 2/37, for [from?] the Nicaraguan Foreign Office, dated January 9, 1937,² which states that Nicaragua would like to construct 15 miles running northward from Tipitapa as a first link on the Inter-American Highway, for which purpose it has set aside with the Collector General of Customs the sum of C\$165,000.00 córdobas—available as follows:

C\$25,000—Immediately.
C\$70,000—July 1st 1937.
C\$70,000—January 1st 1938.

The note requests aid in the form of road equipment and materials, also that an Engineer be loaned to prepare plans and specifications on the section of the proposed first link.

The copy of the letter President Somoza sent to the Collector General of Customs, which accompanied the note mentioned above, is signed by him, and the copy of the Collector's acknowledgment asserting that the orders would be respected is signed by Irving A. Lindberg.³

Respectfully yours,

BOAZ LONG

810.154/1118

The Minister in Nicaragua (Long) to the Secretary of State

No. 386

MANAGUA, January 9, 1937.

[Received January 14.]

SIR: I have the honor to transmit herewith translation of a Note No. 3, dated January 9, 1937,² from the Minister for Foreign Affairs

¹ Continued from *Foreign Relations*, 1936, vol. I, pp. 151-173.

² Not printed.

³ Collector General of Customs.

which in effect accepts for Nicaragua the conditions which served in allotting bridges to Guatemala, Honduras and Panama, and requests the three bridges named above.⁵

The Minister promises, immediately upon receipt of advice that each bridge has been authorized, to set aside the funds with which to provide the materials and perform the work that would fall to Nicaragua.

It is assumed that the Inter American Highway Office at San José has submitted or soon will submit full information in connection with each of these bridge projects.

Respectfully yours,

BOAZ LONG

810.154/1118

The Secretary of State to the Minister in Nicaragua (Long)

No. 123

WASHINGTON, February 19, 1937.

SIR: Reference is made to the Legation's despatches numbers 385 and 386, dated January 9, 1937, regarding cooperative construction work on a portion of the Nicaraguan section of the projected Inter-American Highway. There is enclosed the text of a note which should be addressed by the Legation to the Ministry of Foreign Relations of Nicaragua announcing the willingness of your Government to cooperate on the work, in the manner specified by the Nicaraguan Government in its two notes, also of January 9, 1937, translations of which were enclosed with your despatches referred to above. With reference especially to the cooperative construction of the specified section of the Highway, you are directed informally to make clear to the interested Nicaraguan authorities that the major portion of the total costs of this work will have to be borne by the Nicaraguan Government, while in the cooperative bridge construction work the major portion of the total costs will be borne by your Government.

For your information there are enclosed copies of this Department's letter of January 19, 1937, to the Department of Agriculture and that Department's reply dated January 30, 1937.⁶

Very truly yours,

For the Secretary of State:

WILBUR J. CARR

[Enclosure]

Text of Note To Be Addressed to the Nicaraguan Minister for Foreign Affairs

EXCELLENCY: I am authorized to inform Your Excellency that the cooperation in bridge and road construction work along the route of

⁵ i. e., Sebaco, Maderas, and Esteli.

⁶ Neither printed.

the Inter-American Highway proposed in your two notes dated January 9, 1937, has received careful consideration and the Government of the United States will be able to cooperate on the work, in the manner suggested by the Nicaraguan Government.

Engineers of the Bureau of Public Roads of the Department of Agriculture of my Government have been instructed to proceed at once with the detailed surveys and plans for the three bridges specified by you and the final location of the section of road in the construction of which my Government's cooperation has been requested.

In communicating to Your Excellency my Government's willingness to cooperate on the work in the manner specified by your Government, in order to make certain that there shall be no misunderstanding, I am asked to add the following explanations:

The three bridges now to be built are substituted for the Ochomogo bridge formerly offered, (the offer of which is hereby withdrawn); but the conditions specified to govern the cooperation of the two Governments in the construction of that bridge will, it is understood, govern in the construction of these three. The technical representatives of the Bureau of Public Roads of my Government will complete, insofar as they have not already done so, the location surveys along the proposed section of the Highway and furnish preliminary estimates of costs of the construction work for the use of the interested Nicaraguan authorities. The Government of the United States can furnish for the road construction specified such road-building equipment as is considered necessary for the work, with the understanding that such equipment will not be used on any roads not on the route of the Inter-American Highway. In addition to this road-building equipment, the United States Government can furnish such steel beams, reenforcing metals and culvert pipes as may be required for the drainage structures along the specified section of the Highway and the bitumen needed to bind the surface. It is understood that, as stated in one of your notes of January 9, 1937, referred to above, the Nicaraguan Government will furnish the needed construction materials which can be obtained in Nicaragua for both the bridge construction and road construction and also the labor and money necessary to complete the construction work. It is also understood by my Government that the Nicaraguan Government will pay the costs of transporting to the various locations where they will be used not only the materials needed which can be obtained in Nicaragua but also (from the Nicaraguan ports where they shall be landed) the road-building equipment and materials furnished by my Government, including their passage over wharves or through customs houses, no customs charges to be assessed against my Government on any such equipment or materials. It is further understood that Nicaragua will furnish all rights of way needed and in connection with all transportation and construction,

provide easements sufficient for needed operations, and will hold the United States harmless under local law for all employees liability obligations.

The necessary steps will be taken by my Government to assign an engineer, in accordance with the request contained in one of Your Excellency's notes, referred to above, to supervise the road construction work on the specified section of the Highway, especially the placement of the materials supplied by my Government. The Nicaraguan Government should assign as an assistant a local engineer to collaborate with him; but the details of this assignment and collaboration should be fixed only after discussions between local technical representatives of the Bureau of Public Roads of my Government and the appropriate Nicaraguan authorities.

Accept [etc.]

810.154/1119

The Secretary of State to the Chargé in Costa Rica (Collins)

No. 387

WASHINGTON, February 19, 1937.

SIR: Referring to your Legation's telegram 89 of December 16, 1936,⁷ which reported that the Minister of Public Works had on that day urged an early answer to his Government's note of September 10, 1936,⁸ and asserted that it was anxious to push the proposed cooperative construction of the specified section of the Inter-American Highway, there is enclosed the text of a note which should be addressed by the Legation to the Ministry of Foreign Relations of Costa Rica stating that your Government will be able to cooperate on the work in the manner suggested by the Costa Rican Government. You are directed informally to make clear to the appropriate Costa Rican authorities that, in the cooperative road construction work now proposed, the major portion of the total costs of the work will have to be borne by the Costa Rican Government, while in the cooperative bridge construction work, offered some time ago by the Government of the United States (the offer to cooperate in which is, you will please explain, hereby withdrawn), the major portion of the total costs would have fallen to your Government.

For your information there are also enclosed copies of this Department's letters dated October 13 and December 23, 1936, to the Department of Agriculture, and that Department's replies dated October 17, 1936, and January 14, 1937.⁹

Very truly yours,

For the Secretary of State:
SUMNER WELLES

⁷ *Foreign Relations*, 1936, vol. v, p. 173.

⁸ Not printed; but see despatch No. 1262, September 29, 1936, from the Chargé in Costa Rica, *ibid.*, p. 168.

⁹ None printed.

[Enclosure]

*Text of Note To Be Addressed to the Costa Rican Minister for
Foreign Affairs*

EXCELLENCY: I have the honor to inform Your Excellency that the cooperation in road construction along the route of the Inter-American Highway between Cartago and San Marcos tentatively proposed in your Government's note of September 10, 1936, has received careful consideration and that the Government of the United States will be able to cooperate on the work in the manner suggested by the Government of Costa Rica.

In communicating to Your Excellency my Government's willingness to cooperate in the manner specified by your Government, in order to make certain that there shall be no misunderstanding, I am instructed to add the following explanations:

The technical representatives in Costa Rica of the Bureau of Public Roads of my Government will complete, insofar as they have not already done so, the location surveys along the proposed section of the Highway and furnish preliminary estimates of costs of the construction work for the use of the interested Costa Rican authorities. My Government can furnish such road-building equipment as will be needed for use in the construction of the specified section of the road in question, with the understanding that such equipment will not be used on any roads not on the route of the Inter-American Highway. In addition to such equipment the United States Government can furnish such steel beams, reinforcing metals, and culvert pipes, as may be required for the drainage structures along the specified section of the Highway. If the Government of Costa Rica is prepared to undertake the financing of a type of construction on this proposed work similar to that already undertaken by it elsewhere in the vicinity of Cartago and San José, my Government will be able not only to supply the additional equipment required for bituminous or concrete construction, but also the bituminous materials and cement, so far as these are products of the United States and so far as available funds will permit. My Government will also assign an engineer to supervise the placement of all construction materials which it supplies. It is understood that, as stated in your note of September 10, 1936, referred to above, the Costa Rican Government will furnish the needed construction materials which can be obtained in your country and also the labor and money deemed necessary to complete the proposed construction work. It is also understood by my Government that the Costa Rican Government will pay the costs of transporting to the various locations where they will be used not only the materials needed which can be obtained in Costa Rica but also (from the Costa Rican ports where they shall be landed) the road-building equipment and

materials furnished by my Government, including their passage over wharves or through customs houses, no customs charges to be assessed against my Government on any such equipment or materials. It is further understood that Costa Rica will furnish all rights of way needed and in connection with all transportation and construction, provide easements sufficient for needed operations, and will hold the United States harmless under local law for all employees liability obligations.

Referring to the indication in Your Excellency's note of September 10, 1936, that, upon the approval of the work now proposed by Costa Rica, the Executive would submit the matter to the Constitutional Congress for its ratification and its authorization of the necessary expenditures, I am asked to state that as soon as my Government shall be informed that the Costa Rican Government has definitively announced that it desires to proceed with the proposed road construction along the lines indicated, my Government will be ready to begin at once its part of the work.

Accept [etc.]

810.154/1131

The Secretary of State to the Minister in Guatemala (Des Portes)

No. 79

WASHINGTON, February 26, 1937.

SIR: Referring to the Department's instruction No. 223 of September 3, 1935,¹⁰ with which was enclosed the text of a proposed note to be delivered to the Guatemalan Government outlining the conditions on which your Government proposed to cooperate with that of Guatemala in the construction of the Tamazulapa Bridge on the route of the projected Inter American Highway, there is enclosed the text of another proposed note for delivery by you to the Minister of Foreign Affairs of the Government to which you are accredited regarding further cooperative construction work along the route of the Inter American Highway in Guatemala. A blank space has been left near the beginning of the enclosed proposed note in which you are to insert the date of the note addressed by your Legation to the Guatemalan Government in consequence of the instruction referred to above.

Very truly yours,

For the Secretary of State :
SUMNER WELLES

¹⁰ *Foreign Relations*, 1935, vol. iv, p. 260.

[Enclosure]

*Text of Note To Be Addressed to the Guatemalan Minister for
Foreign Affairs*

EXCELLENCY: Referring to the Legation's related note of I have the honor to inform Your Excellency that I have been directed to make the following explanations regarding further cooperative construction work along the route of the Inter American Highway through your country:

It is understood that when Mr. E. W. James of the Bureau of Public Roads of my Government was in Guatemala some months ago to discuss with the appropriate authorities of your Government plans for further cooperative construction work along the route of the projected Highway, he was informed that, instead of the construction of a bridge over the Panajachel River, in the construction of which he was prepared to say that he believed his Government would be able to cooperate, as in the construction of the Tamazulapa bridge, the interested officials of your Government indicated that they would prefer to have the cooperation of my Government in the construction of two small bridges and in supplying culvert pipe and other culvert materials needed along approximately twenty-four kilometers of the route of the Highway between Asunción Mita and the frontier of El Salvador. It is also understood that this section of the projected Highway has already been re-located by engineers of the Bureau of Public Roads of my Government, that the new location has been accepted by the highway organization of your Government, and that the latter has recently indicated, informally, a desire that my Government furnish certain road-building equipment for use in the construction work specified.

I am instructed to inform Your Excellency that careful consideration has been given to the matter by the appropriate officials of my Government and that the procedure suggested by the Guatemalan authorities is acceptable to my Government.

Accordingly, I have been directed to state that my Government is prepared to cooperate in the designated construction work by supplying the necessary materials for, and erecting, under the conditions that have governed in the cooperative construction of the Tamazulapa bridge, the two specified small bridges along the designated section of the Inter American Highway. It is also understood that no customs of El Salvador, by supplying and delivering the culvert pipe and other culvert materials needed along the same section of the Highway, and by furnishing and delivering the necessary road-building equipment

for use in the construction work specified, with the understanding that such equipment will not be used on any roads not on the route of the Inter American Highway. It is also understood that no customs charges shall be assessed against my Government upon the entry into Guatemala of any of the specified bridge or culvert materials or road-building equipment, that there shall be no charges for passing these articles over wharves owned by the Guatemalan Government or for transporting them on Government owned vessels or railways, and that when on privately owned railways, vessels or wharves only such charges shall be paid on such articles as are paid on articles owned by the Guatemalan Government. It is further understood that in the cooperative construction work along the specified section of the Highway and in the transportation of the articles supplied by my Government, Guatemala will furnish all necessary rights of way, provide easements sufficient for needed operations, and hold the United States harmless under local law for all employees liability obligations.

If the proposal outlined immediately above is acceptable to your Government, I would appreciate having you address to me a note in reply stating that fact. On receipt of your reply I shall be pleased to forward a copy of it to the Department of State of my Government. As soon as your statement that the proposal is acceptable to your Government shall have reached the Department of State, the necessary steps will be taken to carry out my Government's part of the proposed construction work.

810.154/1131

The Secretary of State to the Minister in Panama (Summerlin)

No. 267

WASHINGTON, February 26, 1937.

SIR: Referring to the Department's instruction No. 64 of September 3, 1935,¹¹ with which was enclosed the text of a proposed note to be delivered to the Government of Panama outlining the conditions on which your Government proposed to cooperate with that of Panama in the construction of the Chiriquí Bridge on the route of the projected Inter American Highway, there is enclosed the text of another proposed note for delivery by you to the Minister of Foreign Affairs of the Government to which you are accredited regarding further cooperative construction work along the route of the Inter American Highway in Panama. A blank space has been left near the beginning of the proposed note in which you are to insert the date of the note

¹¹ See *Foreign Relations*, 1935, vol. iv, p. 260, footnote 33.

addressed by your Legation to the Panamanian Government in consequence of the instruction referred to above.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

[Enclosure]

*Text of Note To Be Addressed to the Panamanian Minister for
Foreign Affairs*

EXCELLENCY: Referring to the Legation's related note of I have the honor to inform Your Excellency that I am directed to make the following explanations regarding further cooperative construction work along the route of the projected Inter American Highway through your country:

It is understood that when Mr. E. W. James of the Bureau of Public Roads of my Government was in Panama some months ago to discuss with the appropriate authorities of your Government further cooperative bridge construction, he indicated that he believed his Government would be able to cooperate with yours in the construction of one additional bridge, that over the Platenar River, on the conditions which have governed in the cooperative construction of the Chiriquí Bridge. It is also understood that the interested officials of Your Excellency's Government, on the occasion of a subsequent visit of Mr. James, expressed a desire to change the conditions of cooperation so that three bridges desired by them, namely, those over the Platenar, the Chirigagua, and the San Cristobal Rivers, could be erected and that they consequently proposed that my Government furnish only the structural and reinforcing steel needed for the three bridges and that their Government assume responsibility for all transportation from shipside to the bridge sites, for furnishing all needed cement, for the construction of the substructures, and for the erection of the superstructures of the specified three bridges.

I am instructed to inform Your Excellency that careful consideration has been given to the matter by the appropriate officials of my Government and that the alternate proposal referred to above is acceptable to my Government.

Accordingly, I have been directed to state that my Government is prepared to cooperate in the construction of the three bridges over the Platenar, the Chirigagua, and the San Cristobal Rivers, in the manner specified by the Panamanian authorities. That is, my Government will furnish the steel needed for the three bridges, and the Government of Panama will assume responsibility for all transportation from shipside to the bridge sites, for furnishing all needed

cement, for the construction of the substructures, and for the erection of the superstructures of the specified three bridges. It is understood further that no customs charges shall be levied on any of the materials supplied by my Government and that the conditions under which my Government agreed to cooperate in the construction of the Chiriquí Bridge shall govern in the construction of the three bridges specified above; except insofar as they are modified by the present proposal.

If the proposal outlined immediately above is acceptable to your Government, I would appreciate having you address to me a note in reply stating that fact. On receipt of your reply I shall be pleased to forward a copy of it to the Department of State of my Government. As soon as your statement that the proposal is acceptable to your Government shall have reached the Department of State, the necessary steps will be taken to carry out my Government's part of the proposed construction work.

810.154/1138

The Minister in Nicaragua (Long) to the Secretary of State

No. 428

MANAGUA, March 12, 1937.

[Received March 18.]

SIR: With reference to the Department's instruction No. 123 of February 19, 1937, transmitting to the Legation the text of a note for transmission to the Ministry of Foreign Affairs of Nicaragua, announcing the willingness of the Government of the United States to cooperate in the construction of the Nicaraguan section of the proposed Inter-American Highway, I have the honor to report that the note was transmitted under date of February 26, 1937, and to enclose copy and translation of the reply of the Minister for Foreign Affairs dated March 4,¹² expressing thanks for the offer of cooperation and confirming on behalf of the Nicaraguan Government the points contained in the note of February 26, 1937.

Respectfully yours,

BOAZ LONG

810.154/1140

The Minister in Panama (Summerlin) to the Secretary of State

No. 964

PANAMÁ, March 16, 1937.

[Received March 23.]

SIR: I have the honor to refer to the Department's instruction No. 267, of February 26, 1937, file No. 810.154/1131, transmitting the text of a note proposed to be sent to the Secretary of Foreign Relations

¹² Not printed.

and Communications of the Panamanian Government stating the conditions under which the Government of the United States is disposed to cooperate in further bridge construction on the route of the Inter-American Highway at the crossings of the Platanar, Chirigagua and San Cristobal rivers.

The Legation's note to the Panamanian Foreign Office, No. 499, of March 3, 1937, followed the exact text of that transmitted by the Department except for the first paragraph, which read as follows:

"Referring to the Legation's related note No. 136, of September 16, 1935, I have the honor to inform Your Excellency that I am directed to make the following explanations regarding further coöperative construction work along the route of the projected Inter-American Highway through the Republic of Panama."

The complimentary closing read:

"Accept, Excellency, the renewed assurances of my highest consideration."

There is transmitted herewith in copy and translation the reply of the Panamanian Foreign Office, dated March 16, 1937,¹³ accepting the conditions set forth in the Legation's note above mentioned.

Respectfully yours,

GEORGE T. SUMMERLIN

810.154/1156

The Chargé in Guatemala (McKinney) to the Secretary of State

No. 239

GUATEMALA, April 27, 1937.

[Received May 3.]

SIR: I have the honor to refer to the Department's instruction of February 26, 1937, File No. 810.154/1131, relative to the further cooperation of the Guatemalan Government in the construction of the projected Inter American Highway through this country, and to the Legation's despatch No. 229 of March 31, 1937,¹³ in reply thereto, in which the Department was informed that the offer of the American Government of funds for the highway construction, to be expended under certain specified conditions, was being given consideration by the appropriate Guatemalan authorities.

The Legation is now in receipt of a note from the Ministry of Foreign Relations of the Guatemalan Government,¹⁴ a translated copy of which is herewith transmitted, from which it appears that the Government of Guatemala accepts with pleasure the offer of the

¹³ Not printed.

¹⁴ Dated April 24, not printed.

United States to participate in advancing the construction of the Inter American Highway. It will be noted that Minister Salazar does not directly refer to the stipulations of the Department's memorandum, forwarded with the instruction referred to above, and which were duly transmitted to the Foreign Office in a formal note dated March 2, 1937. The Legation assumes, however, that his present acceptance of the offer, and the fact that certain materials have already been ordered under it from the United States, implies the desire and intention of his Government of complying with the stipulations of the Department in the matter.

Respectfully yours,

WALTER H. McKINNEY

810.154/1178

Memorandum by the Assistant Chief of the Division of the American Republics (Beaulac) to the Under Secretary of State (Welles)

[WASHINGTON,] June 8, 1937.

Mr. James of the Bureau of Public Roads called at my request. I asked him regarding reported plans that Mr. MacDonald¹⁶ has for obtaining additional funds from Congress for assistance in the construction of the Inter-American Highway.

Mr. James said that he had recently prepared a report for Mr. MacDonald on the progress already made, and that the report embodied the suggestion that further assistance be given.

It is apparently in Mr. MacDonald's mind to seek an additional appropriation of \$1,000,000, and he apparently plans to discuss the matter directly with the White House.

I suggested to Mr. James the advisability of consultation with this Department and some agreement between the two Departments before any formal request for funds is initiated. I expressed the personal opinion that a request for an additional million dollars would probably have the approval of this Department.

Mr. MacDonald apparently has always been the moving spirit in obtaining funds for the Highway, and his interest and enthusiasm are, of course, commendable. From the point of view of correct procedure, however, I believe that he should take what steps he proposes to take in full agreement with this Department.

The additional \$1,000,000 would be devoted to additional assistance in the form of bridge and highway construction in Central America.

WILLARD L. BEAULAC

¹⁶ Thomas H. MacDonald, Chief of the Bureau of Public Roads, Department of Agriculture.

810.154/1178

Memorandum by the Under Secretary of State (Welles) to the Assistant Chief of the Division of the American Republics (Heath)

[WASHINGTON,] June 18, 1937.

I am afraid that I am not at all in accord with the opinion which Mr. Beaulac expressed to Mr. James.¹⁷ I do not believe that public opinion in this country nor the Congress would sanction any recommendation by the Department of State for an additional appropriation of one million dollars by the United States as a further contribution towards the construction of the Inter-American Highway. I think any such recommendation would be bad policy.

The Central American republics, with the possible exception of Nicaragua, are now fortunately enjoying a period of increasing prosperity. I think it can logically be expected that if they are interested in the construction of the Inter-American Highway, they should use their own funds for the construction of the portion coming within their boundaries. Furthermore, as you will recall, the Inter-American Highway Convention signed recently at Buenos Aires¹⁸ provides for the creation of a special commission to recommend to all of the governments interested the ways and means of financing and of constructing the road. Pending the ratification of the Convention and the formulation of the recommendations of the special commission, I would strongly oppose any further appropriation by this Government.

S[UMNER] W[ELLES]

810.154/1184

The Minister in Guatemala (Des Portes) to the Secretary of State

No. 279

GUATEMALA, June 23, 1937.

[Received June 28.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 106, of June 8, 1937,¹⁹ File No. 810.154/1173, calling to my attention a discrepancy between the provisions of the offer of the Government of the United States of further cooperation in the construction of the Inter-American Highway, and the acceptance of that offer by the Guatemalan Government, as set forth in

¹⁷ See memorandum by Mr. Beaulac, *supra*.¹⁸ Convention between the United States and other American Republics, signed December 23, 1936, Department of State Treaty Series No. 927, or 51 Stat. 152.¹⁹ Not printed.

the note from the Foreign Office dated April 24, 1937,²⁰ since in the former it was stipulated that the material and equipment supplied were to be used on the section of the highway between Asunción Mita and the frontier of El Salvador, whereas the acceptance of the offer by the Government of Guatemala provides that such material and equipment is to be used on the section of the highway between Asunción Mita and the bridge over the river Los Esclavos, which is exactly in the opposite direction from that indicated. The Department directs me to bring this discrepancy to the attention of the appropriate Guatemalan authorities with the view to obtaining a rectification of the matter in conformity with the provisions of the Department's instruction of February 26, 1937, which were duly communicated to the Minister for Foreign Affairs by the Legation's note of March 2, 1937.

Pursuant to these instructions I now have the honor to transmit herewith a copy, together with a translation thereof, of Note No. 7442, dated June 19, 1937, from the Ministry for Foreign Affairs,²¹ in which the Guatemalan Government gladly agrees to the rectification desired, and advises that the material and equipment furnished by the United States will be used on the section of the highway between Asunción Mita and the frontier of El Salvador.

Respectfully yours,

FAY ALLEN DES PORTES

810.154/1195

Memorandum by the Under Secretary of State (Welles) to the Chief of the Division of the American Republics (Duggan)

[WASHINGTON,] June [July?] 12, 1937.

MR. DUGGAN: I spoke this morning with the Secretary regarding the idea of further appropriations by the Government for the construction of the Inter-American Highway.

The Secretary agrees that it would be desirable to ascertain whether the President himself is at all anxious to have such further appropriations made. This I will undertake to do myself in the near future. Second, the Secretary believes as I do that no further appropriations should be requested until after the Special Committee to be set up in accordance with the terms of the Buenos Aires Highway Convention renders its report.

S[UMNER] W[ELLES]

²⁰ Not printed, but see despatch No. 239, April 27, from the Chargé in Guatemala, p. 185.

²¹ Not printed.

810.154/1212

The Secretary of Agriculture (Wallace) to the Secretary of State

WASHINGTON, August 14, 1937.

DEAR MR. SECRETARY: The program of projects undertaken between this Government and the Central American Governments for the improvement of the Inter-American Highway has now advanced to the point of completion that makes it necessary to decide upon the immediate future operations.

There are fourteen of these projects. Eleven provide for the building of bridges in the five countries and these will be completed in September and October. The other three are road projects in Nicaragua, Costa Rica and Guatemala. It is expected that the road projects will continue for two or three months longer. These are in the nature of demonstration examples of road construction designed to organize into efficient road building units the native workmen, using road building equipment from the United States.

The \$1,000,000 made available to the President in the Emergency Appropriation Act, fiscal year 1935, for cooperation with several Governments in the improvement of the Inter-American Highway, has been exhausted by the obligations and actual expenditures for the approved program so that no new major projects can be undertaken.

The reconnaissance survey began in 1930. The organization of engineers maintained by the Bureau of Public Roads, representing the United States, and the Highway Departments of the Central American countries, have been working in cooperation since then, first on the surveys, and now on actual improvement projects. Through these years, all the cooperative operations have been characterized by harmony and good will.

We have requests from several of the Governments to add important projects to the programs which must be denied unless we have additional funds.

I feel it is essential that we do not lose, by failure now to provide additional funds in a very moderate amount, the momentum of interest and real action that has taken seven years to build. The balance of funds available will not permit the maintenance of the engineering organization and the central engineering office at San José for more than a few months longer. It is necessary, therefore, that we either have additional funds now or the assurance from the President of his desire to continue the work and to recommend further financial support. I am therefore requesting that you join with me in submitting recommendations to the President as provided in the attached proposed communication.

If you are in agreement, I suggest that the attached letter ²² be submitted as a joint recommendation of the Department of State and the Department of Agriculture.

Sincerely yours,

H. A. WALLACE

810.154/1192

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

No. 2

WASHINGTON, September 10, 1937.

SIR: Careful attention has been given to the inquiry in the Costa Rican Government's note of July 9, 1937 (a copy and translation of which was enclosed with your Legation's despatch no. 1432, dated July 10, 1937)²³ regarding the sum of money which the Government of the United States has decided to allot to furnishing machinery and materials for use in the construction of the section of the Inter-American Highway between Cartago and San Marcos, as proposed in the Costa Rican Government's note of September 10, 1936,²⁴ and accepted by the note which, in the Department's instruction no. 387 of February 19, 1937, the Chargé d'Affaires ad interim was directed to address to the Government to which you are accredited. The receipt is also acknowledged of your Legation's telegrams no. 47 of August 7, noon, no. 49 of August 10, 2 p. m., no. 53 of August 12, noon, no. 56 of August 28, 5 p. m., and no. 57 of August 31, 5 p. m.²⁵

Please call the attention of the appropriate authorities to the fact that the clause "so far as available funds will permit", contained in the note which your Legation was directed, in the instruction of February 19, 1937, to communicate to the Costa Rican Government, and quoted in the Costa Rican inquiry of July 9, modified only the offer to supply bituminous materials and cement and the additional equipment needed for applying the hard-surfacing materials, provided Costa Rica desired to have a hard surface on the Section of the highway in the construction of which your Government indicated its willingness to assist. You may assure the appropriate authorities that only the portion just referred to was conditional, explaining that the remainder of your Government's commitment was unconditional and that your Government is prepared to expend the amount necessary to fulfill its unconditional commitment.

²² Not printed. Apparently this letter was not sent. See letter to the Secretary of Agriculture, December 2, p. 195.

²³ Not printed.

²⁴ Not printed, but see despatch No. 1262, September 29, 1936, from the Chargé in Costa Rica, *Foreign Relations*, 1936, vol. v, p. 168.

²⁵ None printed.

For your information, and for use at your discretion, in no case has your Government announced to any other the specific sum of money which it was prepared to spend in the proffered cooperation on the Inter-American Highway in that country. Your Government has, on the other hand, offered to perform certain specified work in each country which has accepted its proffered cooperation; and has been prepared to carry that work to completion.

With further reference, however, to your Government's unconditional commitment, please explain to the appropriate Costa Rican authorities that it would be convenient for your Government to be informed in the near future, preferably not later than the closing of the present special session of the Costa Rican Congress, whether its offer is going to be accepted, so that if the Costa Rican Government should not desire to avail itself of your Government's proffered cooperation, the funds hitherto reserved for work in Costa Rica can be used in additional work which is desired by governments that have already been cooperating with your Government in construction work on the Inter-American Highway in their countries.

Very truly yours,

For the Secretary of State:
HUGH R. WILSON

810.154/1228

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

No. 22

SAN JOSÉ, September 23, 1937.
[Received October 1.]

SIR: I have the honor to refer to my despatch No. 19 of September 21, 1937,²⁶ and to report as follows:

On September 23rd the Foreign Office delivered to the Legation its note No. 493-B of September 22, 1937, a copy and a translation of which are enclosed.²⁶

It will be observed that our proposals for participation in the Inter-American Highway project in the Cartago-San Marcos area, as contained in our note No. 6 of September 16, 1937, are accepted without reservation. It will be further observed that the proposal was sent to Congress on September 22nd.

While no official advices have thus far been received to the effect that the Inter-American Highway legislation would be given precedence over other pending bills, it is freely predicted that the passage of the bill will be expedited. I may add that the press of San José

²⁶ Not printed.

has received the proposal with enthusiasm and there now appears to be no opposition in either private or official circles to proceeding with the construction work in accordance with the terms and conditions outlined in our note No. 6.

Respectfully yours,

WM. H. HORNIBROOK

810.154/1237

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

No. 64

SAN JOSÉ, October 28, 1937.

[Received November 5.]

SIR: I have the honor to refer to my despatch No. 40 of October 15, 1937,²⁷ and to report as follows:

On October 27 I called upon Mr. Ricardo Pacheco Lara, Minister of Public Works, for the purpose of presenting Mr. Horatio T. Mooers, Second Secretary of the Legation. During the course of the conversation the Minister brought up the subject of the construction of the San Carlos-Alajuela highway. He reminded me of the recent action of the Costa Rican Congress in authorizing negotiations with either the Legation or officials of the Inter-American Highway as to possible participation of the United States in the construction of an additional twenty kilometers of the San Carlos-Alajuela road. He then requested my personal opinion as to the best method of approach. He was advised that if the Costa Rican Government desired the co-operation of the United States in the construction of the San Carlos section that it might perhaps be well to ask the Foreign Office to advise the Legation and that in such event I should of course be only too glad to communicate the views of the former to the Department of State. I added that I could see no objection, however, to informal conferences with the officials of the Inter-American Highway.

The delay of the Foreign Office in acting upon the resolution of Congress pertaining to a bid for American participation in the construction of the San Carlos-Alajuela highway is in no sense of the word due to lack of interest in the construction of this project. National pride has made it rather embarrassing for the Foreign Office to ask for further favors in view of its long delay in acting favorably upon our original proposals. It may be reasonably expected, however, that within the next week or two the Costa Rican Government will formally request American participation in the above-mentioned project.

In as much as the proposed construction will require only a very limited outlay of cash and American road building machinery will be available after the completion of the Cartago-San Marcos highway,

²⁷ Not printed.

I recommend that as a gesture of goodwill the requests of the Foreign Office be anticipated and that we voluntarily offer to participate in this project.

I pointed out to the Minister of Public Works when the matter was presented that the original appropriation for American participation in highway construction in Central America had been nearly exhausted and I was not at all certain that funds would be available for the San Carlos-Alajuela project. However, the local press during the past week contained an article to the general effect that only seven hundred thousand dollars of the one million dollar appropriation for participation in the Inter-American Highway construction had been expended. Therefore it may reasonably be anticipated that our failure to cooperate in the twenty kilometer project will be made the subject of unfavorable press comment and may adversely affect our prestige in Costa Rica. At the present moment our position is so strong in this country that I regard it as unwise to court criticism in the press, but the questions of whether or not we should extend further aid to Costa Rica or await formal representation from the Foreign Office before agreeing to participation in the San Carlos-Alajuela project is, of course, a matter for the Department to decide.

Respectfully yours,

WM. H. HORNIBROOK

810.154/1245

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

No. 77

SAN JOSÉ, November 13, 1937.

[Received November 19.]

SIR: I have the honor to refer to my despatch No. 64 of October 28, 1937, and to report as follows:

Under date of November 6 the Legation received a note from the Foreign Office wherein further participation of the American Government is requested in the construction of twenty kilometers of the Inter-American Highway between Naranjo and San Carlos. The note is self-explanatory and the Spanish text and a translation thereof are enclosed.²⁸

In view of the inconsiderable number of miles involved in the project and limited expenditure of funds required, I most respectfully recommend that if an appropriation is still available, an early acceptance would be most desirable from the standpoint of promoting and maintaining American prestige in Costa Rica.

Respectfully yours,

WM. H. HORNIBROOK

²⁸ Not printed.

810.154/1234

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

No. 26

WASHINGTON, November 16, 1937.

SIR: Copies of your despatch no. 45 dated October 20, 1937,²⁹ stating that the Costa Rican Congress had "approved the bill providing for American participation in the Cartago-San Marcos highway" have been forwarded to the Bureau of Public Roads for its information. Copies of your despatch no. 19 of September 21,²⁹ and no. 22 of September 23, 1937, were also referred to the Bureau of Public Roads.

It is noted that you were informed by the Minister of Foreign Affairs of Costa Rica that his Government accepts without reservation the proposals for participation in the construction of the section of the Inter-American Highway contemplated in your note no. 6 of September 16, that the proposal would immediately be sent to Congress, and that he would inform you of the disposition of the constitutional Congress of the Republic toward the bill as soon as it should be expressed.

No subsequent despatch which has reached the Department has stated that this promised formal communication on the subject had been received by you. The note which the Chargé d'Affaires was directed, in the Department's instruction no. 387 of February 19, 1937, to address to the Costa Rican Government, stated in conclusion that "as soon as my Government shall be informed that the Costa Rican Government has definitively announced that it desires to proceed with the proposed road construction along the lines indicated, my Government will be ready to begin at once its part of the work."

If on receipt of this instruction you shall not already have received and forwarded to the Department the formal communication on the subject, promised by the Minister of Foreign Affairs, you are requested to inform the Department by telegraph whether the statements contained in your despatches referred to above should be accepted by this Government as the definitive announcement of the Costa Rican Government "that it desires to proceed with the proposed road construction along the lines indicated," the receipt of which announcement was to be the occasion for this Government "to begin at once its part of the work."

It is the understanding of the Department of State that the Bureau of Public Roads is in fact ready to begin this Government's cooperation in the proposed construction work; but your definite assurance is desired whether any further pertinent communication from the

²⁹ Not printed.

Costa Rican Government should be awaited before the cooperation actually begins.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

810.154/1255

The Secretary of State to the Secretary of Agriculture
(Wallace)

WASHINGTON, December 2, 1937.

MY DEAR MR. SECRETARY: Yesterday Mr. Thomas H. MacDonald, Chief of the Bureau of Public Roads, came to see Assistant Secretary Messersmith and left with him a letter addressed to you by Mr. MacDonald dated November 30, 1937,³⁰ making a recommendation with regard to the further expenditure of funds in connection with the construction of the Inter-American Highway. The last sentence of that letter refers to the communication which you sent me on August 14 of this year in which my agreement was requested with regard to a recommendation to be submitted to the President that Congress be requested to appropriate one million dollars for further construction work on the highway.

As I was glad to state to you over the telephone, I am in accord with your proposal to approach the President with a view to obtaining his agreement to request of Congress an appropriation of five hundred thousand dollars. You may inform the President that I shall be glad to give him an expression of my views in the premises whenever he desires. As in the case of the appropriation of one million dollars authorized in 1934, it seems desirable that the expenditure of the funds should be under the general administration of the President, acting with the cooperation of the two Departments as at present. The language of the authorizing legislation might well follow the language of the Act of June, 1934 (Public, No. 412, 73rd Congress).³¹ I should like to add that I believe the Financial Committee provided for in Article 3 of the Convention on the Pan American Highway signed at the Buenos Aires Conference should be formed as soon as the necessary number of countries have ratified, and that this Committee should render its report at the earliest practicable moment in order that the further financing of highway construction may hereafter be considered as a whole.

I approve action to obtain the authority of Congress to use \$34,000 of the already appropriated administrative funds of the Bureau

³⁰ Not printed.

³¹ 48 Stat. 1021, 1042.

of Public Roads for the maintenance of the engineering organization during the period January to June, 1938.

It is my understanding that the enclosure showing the suggested distribution of funds is not a final decision with regard to allocation but merely indicates what Mr. MacDonald considers a desirable program. It will be necessary, of course, to know which countries will cooperate and precisely what their own desires are before a definite distribution can be determined.

Sincerely yours,

CORDELL HULL

810.154/1259

The Secretary of Agriculture (Wallace) to the Secretary of State

WASHINGTON, December 14, 1937.

MY DEAR MR. SECRETARY: I am glad to receive in your letter of December 2 (RA) assurance that you are in accord with my proposal to approach the President with a view to obtaining his agreement to request of Congress a further appropriation of \$500,000 for construction operations on the inter-American Highway. In line with your communication, I propose to take this matter up with the President and suggest that he seek also an expression of your views.

I am in entire agreement with you regarding the form which an additional appropriation should take, following the language of the Act of June, 1934 (Public No. 412, 73d Congress).

With respect to securing authorization to use already appropriated administrative funds, amounting to \$34,000, for continuing the engineering organization during the balance of the present fiscal year, I am of the opinion that this authorization should be arranged for without necessary reference to a favorable decision regarding a further appropriation for construction. It is important in any case that the engineering organization be retained, for reasons already explained in previous communication to you on this general subject.

Your understanding with regard to the specific projects included in the estimate attached to Mr. MacDonald's letter is correct. However, I understand that projects were selected in which the several countries have already expressed an interest.

Very truly yours,

H. A. WALLACE

810.154/1260

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

No. 32

WASHINGTON, December 22, 1937.

SIR: Copies of your telegraphic despatch no. 73, dated November 22, 10 a. m.,³² regarding the contemplated cooperative construction

³² Not printed.

of the Cartago to San Marcos section of the Inter-American Highway, were forwarded on December 3, 1937, to the Secretary of Agriculture for the information of the Bureau of Public Roads. Referring to your understanding that the two notes, copies of which were enclosed with the two despatches cited in your telegram, read together constituted the definitive announcement of the Costa Rican Government that it desired to proceed with the proposed road construction along the lines indicated, the Secretary of Agriculture was informed that, provided he concurred, the Department of State was satisfied that the necessary formalities had been complied with; and he was told that on receipt of an indication that his Department concurred in the understanding together with a statement that the cooperative work on this section of the highway might proceed without further delay, your Legation would be informed.

In a letter dated December 16, 1937,³³ the Acting Secretary of Agriculture replied that his Department was entirely in agreement with the Department of State in accepting your judgment that the necessary formalities had been complied with by the Costa Rican Government. He also said that the Bureau's engineers in Costa Rica would "be instructed to proceed with the work forthwith". This Department is informed that instructions of this nature were sent to the Bureau's representatives at San José by telegram some time ago.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

³³ Not printed.

INTER-AMERICAN TECHNICAL AVIATION CONFERENCE
HELD AT LIMA, SEPTEMBER 16-23, 1937

[BIBLIOGRAPHICAL NOTE: *Actas y Reglamento de la Primera Conferencia Técnica Interamericana de Aviación* (Lima, 1937); for English text of the Final Act, see First Inter-American Radio Conference, Havana, Cuba, November 1-December 13, 1937, General Secretariat, Volume II, *Documents of the Conference*.]

579.6 AC1/232

*The Secretary of State to the Members of the American Delegation
to the Inter-American Technical Aviation Conference*¹

[WASHINGTON,] September 2, 1937.

SIRS: The Inter-American Technical Aviation Conference to which you have been designated as representatives of this Government, is to be convoked in accordance with Resolution LIII of the Seventh International Conference of American States;² Resolution XXVIII [~~XXXVIII~~] of the Pan American Commercial Conference, Buenos Aires, 1936 [1935],³ and Resolution XLVIII of the Inter-American Conference for the Maintenance of Peace.⁴ The program of the conference has been formulated by the Government of Peru based upon the above-referred-to resolutions and suggestions of the Governments of the American Republics.

The Government of the United States has accepted an invitation extended by the Government of Peru to attend the Inter-American Technical Aviation Conference which will meet in Lima from September 16 to September 23, 1937.

¹ Messrs. Harry Block, Chairman, George W. Lewis, Richard Southgate, Denis Mulligan, and Gerald C. Gross.

² Department of State Conference Series No. 19: *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. 255.

³ Department of State Conference Series No. 22: *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), p. 140.

⁴ Department of State Conference Series No. 33: *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. 245.

The Government of Peru has suggested that the closing of the conference be celebrated by the inauguration in Lima of a monument to the Peruvian aviator, Jorge Chavez, and has requested the Government of the United States to send aircraft to Lima to participate in that celebration. This Government has been pleased to comply with the request and is sending the U.S.S. *Ranger*, an aircraft carrier with a complement of 78 planes. The *Ranger* will be accompanied by two destroyers, the U.S.S. *Worden* and the U.S.S. *Hull*.

In conjunction with the conference, the Peruvian Government is organizing an aeronautical exhibition and the Department of Commerce, the Weather Bureau, and the Federal Communications Commission have collaborated in preparing an exhibit for this Government which will be displayed during the period of the conference.

You have already been notified of your appointment as a delegate of the Government of the United States to this technical aviation conference and I wish to express appreciation of your acceptance of the appointment to represent the Government of the United States at such an important occasion.

AGENDA

The agenda for the conference is as follows:

- A. To study the manner of accelerating Inter-American communications contemplating the following points:
 1. Marking of the aerial routes and airdromes.
 2. International cooperation in meteorological and radio-electric services.
 3. Simplification of the procedure for procuring permission for international flights.
- B. To study the manner of unifying international legislative standards in the Americas;

The drafting of an air code by a Permanent American Aeronautic Committee (C. A. P. A.) which will take into partial or complete account the juridic work of the C. I. N. A. and of the C. I. T. E. J. A.—studying aerial war limitations in America.

- C. To work for cheaper aerial transport through:
 1. The adoption of a special customs tariff in each country for aviation supplies, and meteorological and radio-electric services therefor.
 2. Recommendation for the lowering or reduction of the taxes on combustibles and lubricants.
 3. Placing insurance of air-ships in the countries of the Americas.
- D. To promote the development of aviation sanitation in the American countries.

E. To promote tourist travel by air, by means of:

1. The creation of aviation clubs;
2. The creation of a federation in which such clubs may be affiliated;
3. Facilitating aerial travel by tourists.

REGULATIONS

The draft of regulations which has been formulated by the organizing committee established by the Government of Peru, is attached hereto.⁵ It is presumed that these regulations will be presented to the conference for adoption and there would seem to be no reason why they should not be approved.

GENERAL POLICY

The United States has always taken a deep interest in Pan American relations and in inter-American conferences and you will be guided by the following general instructions to the delegates to the Seventh International Conference of American States in 1933:⁶

"1. Importance of Pan American Policy.

"Never before have the need and benefit of neighborly cooperation in every form of human 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: '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.

"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 interests 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 the task of becoming imbued with the spirit which animates the inter-American policy of the United States.

⁵ Not printed.

⁶ See *Foreign Relations*, 1933, vol. iv, pp. 1 ff.

"2. Unique position of United States.

"Our country has occupied a unique position with regard to the nations of Latin America. Our national individuality and independence were acquired before theirs, and when they achieved independence they turned to us for moral guidance and support. But today, and for many years past, they have stood alone, free, independent and self-reliant. The United States does not desire, and in no sense can it be contemplated, that any of the American peoples should be in a state of tutelage. The independence of each Republic must recognize the independence of every other. We wish the fullest possible development in the national life of the Republics of America in complete accord with their own national characteristics and aptitudes. Each nation must grow by an advancement of civilization and social well-being, and not by the acquisition of territory at the expense of any neighbor or by forcing the will of one nation upon that of another. If it is possible for us to assist them in any way through our development and our achievements in science and industry, we shall be glad to extend such assistance in the most friendly manner, but we shall not proffer it unless it is desired.

"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 would 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."

Noncontroversial subjects.

It is felt that this technical conference may be productive of most effective results if its discussions can be limited to noncontroversial questions. Furthermore, any academic discussions of highly controversial questions would tend to create an atmosphere not entirely harmonious. It is the opinion of this Government that much more substantial progress of an enduring nature can be made if the discussions can in fact be restricted to subjects of vital and immediate importance and of general interest.

Political Controversies or Problems.

You should bear in mind that this conference has been called to consider aviation matters and therefore you should refrain from any discussion whatsoever of any question of a political nature. You will endeavor to have the conference restrict its activities to those subjects already on the agenda and should any attempt be made to consider a political controversy or problem you will explain that you have no authority to consider such questions. You should point out that this

conference was called specifically to consider technical problems relating to aviation and a discussion of other problems would be inappropriate and inadvisable.

The members of the delegation of the United States should in the deliberations of the conference be animated always by a spirit of friendly cooperation with the delegations of the other countries, having in mind, however, the views of the Government of the United States as to the action that should be taken by the conference.

The members of the delegation will be furnished with data on the various subjects to be considered at the conference.

In connection with new proposals submitted for consideration, the delegation should always consider whether the adoption of such proposals would adversely affect aviation interests of the United States in the American Republics, or would tend to further the development thereof or to make possible the establishment of new interests which might be of advantage to the United States.

There is no indication in the agenda of the conference of any intention to draft international conventions on the various subjects to be considered at Lima, and it does not appear that there will be sufficient time for an adequate study and analysis of the various questions to warrant the drafting of conventions. However, the members of the delegation of the United States are being furnished full powers to sign conventions, for use in the event that the conference should decide to draft one or more conventions and the delegation should feel that it would be in the interest of the United States to sign them. The delegates are not, however, authorized to sign any convention without prior reference to the Secretary of State.

In the event that there should be any tendency on the part of the conference to favor entrusting to the governments sole jurisdiction over the installation and maintenance of radio and meteorological facilities, the delegation should point out that in the present state of the development of international air navigation, all possible contributions to the science should be welcomed and that any attempt to restrict these services would hinder rather than assist the cause of rapid aerial transportation which is the objective of the conference. While encouraging the development of radio and meteorological facilities by the various Governments, the delegation should, for the reasons above stated, oppose any attempt on the part of those Governments to restrict the use by aviation companies of their own facilities. Sincere cooperation between the Governments and the companies will obviously serve the best interests of both. Furthermore, such cooperation would have the advantage of distributing more evenly among the companies and the Governments concerned the heavy cost of operating these expensive services.

The delegates should bear in mind that the radio requirements of air services constitute only one phase of the problems relating to the organization and coordination of international radio services on a cooperative basis. It is believed that a discussion of questions relating to radio at the Lima Conference should be limited to a consideration of the nature of the radio cooperation which is required solely by the air services. Even as regards the technical problems relating to the methods of administering radio aids to air navigation, it is suggested that consideration might quite properly be given to a reference of such problems to the Inter-American Radio Conference which is scheduled to convene in Habana, November 1, 1937.⁷

Item B of the agenda reads:

"B. To study the manner of unifying international legislative standards in the Americas:

"The drafting of an air code by a Permanent American Aeronautic Committee (C. A. P. A.) which will take into partial or complete account the juridic work of the C. I. N. A. and of the C. I. T. E. J. A.—studying aerial war limitations in America."

C. I. N. A., mentioned in the quoted item, has reference to international public air law, and C. I. T. E. J. A. has to do with international private air law.

Experience has shown that it has been impracticable for a single body to deal adequately with the preparation of a single code of public and private international air law. The International Commission for Air Navigation (C. I. N. A.), functioning under the terms of Article XXXIV of the International Convention for the Regulation of Aerial Navigation, signed at Paris on October 13, 1919,⁸ has developed numerous regulations within the field of international *public* air law and is continuing to adopt such regulations. One has only to examine the voluminous documents issued by that commission to realize how many ramifications there are to the development of international public air law.

It is possible that in connection with a discussion of public international air law one or more of the delegations may bring up the question of recommending that the American Republics become parties to the International Convention for the Regulation of Aerial Navigation signed at Paris on October 13, 1919, or that they adopt portions of that Convention or its annexes. This Convention was signed on behalf of the United States of America but has not been ratified by the United States. Argentina, Peru and Uruguay are

⁷ Correspondence not printed. For references to instruments signed at the Conference, see p. 212.

⁸ For the text of this convention and certain correspondence relating to it, see *Foreign Relations*, 1926, vol. I, pp. 145 ff.; see also *ibid.*, 1929, vol. I, pp. 489 ff.

parties to the Convention. Panama, Bolivia and Chile were at one time parties to the Paris Convention but have withdrawn from participation in the Convention.

The Government of the United States has never deemed it to be advisable to make any public announcement of its reasons for not ratifying the Paris Convention but finds it necessary at this time to invite the attention of the delegation to certain objectionable features of the Convention, copies of which will be made available to the delegation. It is to be observed that the Convention contains Annexes A-H which embody very important technical regulations designed to give effect to the Convention. It will be noted from the examination of these annexes that they are very lengthy and complicated. They are, with the exception of Annex H relating to customs procedure, subject to frequent changes by the International Commission for Air Navigation, a permanent organization created under the terms of Article XXXIV of the Convention. As applied to the United States, if the Convention should be ratified by the Government of the United States, the regulations as adopted by the International Commission for Air Navigation would be binding on the United States without the Government of this country having an opportunity to determine whether they would be acceptable.

It is very doubtful whether an organization composed largely of representatives of European countries would be in a position to adopt regulations that would be entirely adaptable to flying conditions in the territories of the American Republics. Taking as an illustration the technical requirements of the Paris Convention in regard to airworthiness requirements for aircraft, it is to be observed that the Government of the United States has by pursuing an independent course in the formulation of its airworthiness requirements succeeded in building up a set of such requirements which, it is believed, are superior to those of many countries, including some that are parties to the Paris Convention.

While it is believed to be desirable to endeavor to refrain from any severe criticism of the Paris Convention which might unnecessarily antagonize the proponents of world wide uniformity in the regulation of aerial navigation, or the Secretariat of the International Commission for Air Navigation with which the Government of the United States is on friendly terms in the matter of the exchange of aeronautical data for publication, the delegation should nevertheless take a firm position in stating that in the formulation of a code of international public air law, the Governments of the American Republics should be primarily interested in the adoption of measures that are adaptable to flying conditions in the American Republics, and that while it would of course be appropriate in the drawing up of such a

code to give due consideration to the provisions of all existing codes as embodied in the multilateral or bilateral conventions, it should not be the purpose of the framers of the code for the American Republics to assume that the Paris Convention necessarily constitutes the best model to follow or that that Convention should be generally adopted by the American Republics.

A separate organization, known as the International Technical Committee of Aerial Legal Experts (C. I. T. E. J. A.) was organized in 1926 for the purpose of drawing up a comprehensive code of international *private* air law. The committee has held at least two sessions annually since its organization and has drawn up several draft international conventions on various subjects of international private air law. Some of the draft conventions drafted by the C. I. T. E. J. A. have already been referred to diplomatic conferences for final adoption and signature. The preliminary draft of the convention relating to international air transportation, including important provisions regarding the liability of the air carrier for damages caused in the transportation of passengers and goods, signed at Warsaw, Poland, on October 12, 1929,⁹ was prepared by C. I. T. E. J. A. The Convention as signed at Warsaw has been ratified or adhered to by a number of countries, including the United States of America, Mexico, and Brazil.

The delegates of the United States to the Pan American Commercial Conference which met in Buenos Aires May 26–July [June] 19, 1935, were instructed to propose the adoption of a resolution urging that the various governments study the rules of the Warsaw Convention. The Conference approved a resolution recommending that the governments “members of the Pan American Union adopt the Convention of Warsaw”. It is still the view of the Government of the United States that the provisions of the Warsaw Convention might well be given a thorough study by the Governments of the American Republics which have not yet become parties to this convention.

The attention of the delegation is invited to Resolution XXXIV, adopted at the Pan American Conference held at Buenos Aires from May 26 to June 19, 1935,¹⁰ which recommended that the governments of the American Republics study and consider the researches of the International Technical Committee of Aerial Legal Experts (C. I. T. E. J. A.).

Several Latin American countries are listed as being represented in the work of the C. I. T. E. J. A. Apparently, however, they have

⁹ Department of State Treaty Series No. 876, or 49 Stat. 3000; see also *Foreign Relations*, 1929, vol. 1, pp. 540–541.

¹⁰ *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*, p. 136.

not taken an active part in the deliberations of that body and presumably the representatives of these Latin American countries on the C. I. T. E. J. A. have been present at meetings only as observers. It appears, however, that a number of Latin American countries have participated in diplomatic conferences which adopted and signed conventions based upon drafts prepared by the C. I. T. E. J. A. as shown in a tabulation included in the data in the files of the delegation. The United States of America is represented in the work of the C. I. T. E. J. A. and representatives of this country have taken an active part in the deliberations of that body.

It is believed that it would be advisable to await further studies by the C. I. T. E. J. A. of questions of international private air law before determining whether it would be in the interests of the American Republics to undertake a separate study of such questions. Additional information in regard to the work of the C. I. T. E. J. A. and the extent of participation therein by the American Republics is included in the data being furnished the delegation.

So far as aerial war limitations are concerned, the delegation should definitely take the position that the work of the conference should be limited to a consideration of international civil air navigation. A reference to extraneous subjects such as military aviation would, it is believed, raise controversial questions of a political nature that would greatly impair the usefulness of the Lima Conference, and the delegation is not authorized to discuss such questions.

Having specific reference to Item B, discussed above, the delegation of the United States may agree to cooperate in the making of recommendations with respect to the possible adoption of a Permanent Inter-American Aeronautical Committee. It is believed, however, that more practical results would be achieved if such committee should limit its studies to the development of international public air law.

It should be borne in mind in this relation that there already exists a multilateral convention, known as the Habana Convention on Commercial Aviation, adopted at Habana, Cuba, on February 20, 1928,¹¹ during the Sixth International Conference of American States, which contains important principles relating to international public air law for application in the American Republics. The Government of the United States considers that the Governments of the American Republics have, in the adoption of the Convention given another indication of the spirit of neighborly cooperation and that they have made a very important contribution to the progress of aeronautical development.

As having an important relationship to the questions on the agenda, as well as to any labors that may eventually be undertaken by a per-

¹¹ *Foreign Relations*, 1928, vol. I, p. 585.

manent Inter-American aeronautical committee, if organized, the attention of the delegation is especially invited to Article XXXI and the first paragraph of Article XXXII of the Habana Convention on Commercial Aviation.

Article XXXI reads:

"The contracting states obligate themselves in so far as possible to cooperate in inter-American measures relative to:

"(a) The centralization and distribution of meteorological information, whether statistical, current or special;

"(b) The publication of uniform aeronautical charts, as well as the establishment of a uniform system of signals;

"(c) The use of radiotelegraph in aerial navigation, the establishment of the necessary radiotelegraph stations and the observance of the inter-American and international radiotelegraph regulations or conventions at present existing or which may come into existence."

The first paragraph of Article XXXII is as follows:

"The contracting states shall procure as far as possible uniformity of laws and regulations governing aerial navigation. The Pan American Union shall cooperate with the governments of the contracting states to attain the desired uniformity of laws and regulations for aerial navigation in the states parties to this convention."

It is clearly evident from the quoted articles of the Habana Convention, which was signed by representatives of all the American Republics, that the framers of the Convention intended that any action taken along the lines indicated in these articles would be for the purpose of carrying out the general provisions of the Convention and making it effective. The delegation should in this connection definitely take the position that any action taken by the Lima Conference on technical questions that might fairly be regarded as coming within the scope of Articles XXXI and XXXII of the Habana Convention, will be directly related to this Convention and for the purpose of making the Convention effective.

While it is uncertain as to what may be proposed at Lima in regard to the scope and authority of the proposed permanent committee, it would seem to the Government of the United States to be desirable that any recommendations of such permanent committee be made subject to acceptance at periodical international conferences of American States.

It is realized that difficulties will probably arise in discussions as to the scope of the work to be undertaken by a permanent American aeronautical committee and as to the frequency of its sessions, et cetera. The extent of authority to be given such a committee will be of special importance. While the Government of the United States would be glad to cooperate in the work of such a committee, if organ-

ized, this Government could not be bound by any decisions of the committee unless and until accepted by this Government.

If it is decided to organize a permanent Inter-American aeronautical committee, the delegation should indicate that it is the view of the Government of the United States that any uniform regulations that the committee might eventually draft would be for the purpose of giving effect to the Habana Convention on Commercial Aviation as it is now worded or as it may later be revised. It would be appropriate also for the delegation to propose that such a committee might well devote its efforts toward the drafting of annexes containing technical regulations to supplement and carry out the provisions of the Convention. It is believed, however, that there will not be sufficient time at Lima to undertake a revision of the Convention. In view of the extensive studies that would be required before undertaking such a revision, it is possible that the members of the Lima Conference may, if this matter is taken up, desire to determine the most desirable method of approaching the task of revision and the drafting of regulations. In such event, the delegation, provided it perceives no objections to the method proposed, may indicate the willingness of this Government to cooperate. As of possible interest, data are in the files of the delegation showing the results of a preliminary study of the Habana Convention made by officials of this Government.

At its session of April 29, 1932, the Permanent Committee of the International Public Health Office adopted an International Sanitary Convention for Aerial Navigation. The convention was opened for signature at The Hague on April 12, 1933.¹² In general the effect of the convention will be to facilitate international air transportation as much as possible consistently with the necessity of guarding against the introduction of infectious communicable diseases. Without definite and uniform sanitary regulations international air transportation might be seriously impeded in the event of the outbreak of quarantinable diseases. The delegates to the Ninth Pan American Sanitary Conference convened at Buenos Aires on November 12, 1934,¹³ recommended that the American Governments ratify or adhere to this convention. According to information now in the files of the Department of State the Convention has been ratified or adhered to by the Governments of the following American Republics: United States of America, Bolivia, Brazil and Chile. In view of the importance of the convention to international air transportation the American

¹² Signed at The Hague, April 12, 1933; effective August 1, 1935; in respect of the United States, November 22, 1935. For text, see Department of State Treaty Series No. 901, or 49 Stat. 3279.

¹³ Oficina Sanitaria Panamericana, Junio 1935, *Actas de la Novena Conferencia Sanitaria Panamericana* (Washington, [1935]).

delegation at the Lima Conference should favor the adoption of a resolution recommending that the provisions of the convention be studied by the Governments of all the American Republics which have not yet become parties thereto. A memorandum on the International Sanitary Convention is in the files of the delegation.

With regard to the questions relating to customs tariffs and taxes, referred to in items 1 and 2 of paragraph C of the agenda, your particular attention is invited to a memorandum from the Treasury Department, which is in the files of the delegation. As of possible interest there are also included in the files of the delegation copies of several international agreements containing provisions relating to customs exemptions.

Very truly yours,

CORDELL HULL

597.6AC1/247 : Telegram

The Chairman of the American Delegation to the Inter-American Technical Aviation Conference (Block) to the Secretary of State

LIMA, September 26, 1937—7 p. m.
[Received September 27—8:32 a. m.]

2. The Inter-American Technical Aviation Conference has concluded its work in an atmosphere of cordiality and friendship. The Conference restricted its action to the adoption of resolutions, recommendations and motions. Santiago, Chile, was designated as the meetings for a second Aviation Conference to be held at a date as yet undetermined.

The following countries participated in the Conference: Argentina, Brazil, Bolivia, Chile, Colombia, Ecuador, Mexico, Panama, Peru, United States of America, Uruguay, Venezuela.

Permanent American Aeronautical Commission (C. A. P. A.).

The Conference provided for the establishment of an organization to serve the aeronautical interests of the American Republics known as the Permanent American Aeronautical Committee (Comisión Aeronautica Permanente Americana) (C.A.P.A.). The delegations of Argentina, Brazil and Uruguay voted in opposition to this resolution indicating their desire for immediate universal action in this regard as opposed to the thought of the other nations present that the most practical approach to universal cooperation would be the establishment first of a regional organization to coordinate the views of the American states.

The purpose of the Commission is to work toward the unification and codification of international public and private air law to develop

and coordinate technical subjects of mutual concern including the correlation of local air routes and services with international air routes and services. The establishment of national commissions in the several American Republics for the purpose of cooperating with the C. A. P. A. is recommended.

The Permanent American Aeronautical Commission will meet periodically in the capitals of the American Republics at intervals not to exceed 2 years. The first meeting is to be held in Bogotá. The Commission will not have plenipotentiary powers and any draft conversations [*conventions?*] which it may formulate will be submitted for approval to special diplomatic aviation conferences or to the periodic international conferences of American states. When such conventions have received general approval by the American states C.A.P.A. may propose the meeting of a universal aviation conference or adopt other measures with a view to giving a universal character to its conclusions. It is believed that the creation of C.A.P.A. represents an outstanding achievement of the Conference.

Promotion of inter-American air commerce.

Recommendations were adopted regarding the following: (1) the designation of air ports of entry in the several Republics; (2) air transportation documents in which the single document relating to the carriage of passengers, goods and baggage was recommended; (3) the elimination of consular invoices for air transportation purposes; (4) establishment of special courses on air law in colleges and universities; (5) an increase in the frequency of international air services; (6) exemption from duties on gasoline, lubricants and spare parts used in aviation. The United States delegation pointed out that there might be difficulties in complying with this latter recommendation due to the independent authority of the States of the United States in this connection.

Radio.

The Conference adopted the following eight resolutions dealing with radio as related to aviation: (1) that the Habana Conference allocate exclusive aviation frequencies; (2) use of band 200 to 400 kilocycles for air navigation aids as in the United States; (3) and (4) cooperation by the Governments in synoptic transmission and installation of air navigation aids; (5) compulsory installation of two-way radio on passenger aircraft; (6) standards of field strength and interference in low frequency band to be established by Habana Conference; (7) cooperative frequency measurements; (8) use of designation of radio waves by frequency in kilocycles alone. Wave length meters to be dropped.

Meteorological services.

Coordination and expansion of meteorological services in South American countries was given considerable study and resolutions were adopted providing for close cooperation to accomplish this end, also for obtaining adherence to the rules of the International Meteorological Organization. It is expected that as a result of the Conference uniformity of information and the establishment of twice daily transmissions from Rio de Janeiro of synoptic weather reports from 84 South American stations will be secured beginning January 1, 1939.

Sanitary aviation.

The Conference adopted a resolution dealing with sanitary aviation. This resolution appeared to deal primarily with individual problems pertaining to the countries of South America. The Government of Uruguay was charged with the task of promoting the study of sanitary aviation including the calling of a special conference on this matter. It was also recommended that the relation of medical science to special aviation problems be studied and that cooperation between aerial medical services be promoted. The United States delegation abstained from voting on this resolution.

Touring aviation.

The Conference devoted much time and consideration to the strengthening of friendly ties between the American Republics through the development of sporting and touring aviation. A resolution recommended the establishment of an inter-American Civil Aeronautic Federation (Federación Americana Aeronautica Civil). Mexico was selected as the headquarters of the Federation. The F. A. A. C. is to foster a close cooperation between the national aero clubs through an interchange of publications and information, the promotion of meetings and racing and other appropriate means.

Other recommendations relate to: (1) the encouragement of air marking through the construction of signs visible from the air; (2) encouragement of aerial touring; (3) tourists passports—the United States delegation stated that the Government of the United States had not become a party to the convention relative to tourist passports signed at the Pan American Commercial Conference in 1935¹⁴ to which reference was made in this resolution.

BLOCK

¹⁴ *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*, p. 78.

ARRANGEMENT BETWEEN THE UNITED STATES OF
AMERICA AND OTHER AMERICAN REPUBLICS RE-
SPECTING RADIO COMMUNICATIONS, AND ANNEX,
SIGNED AT HABANA DECEMBER 13, 1937

[For text of arrangement, see Department of State Executive
Agreement Series No. 200, or 54 Stat. 2514.]

AGREEMENT BETWEEN THE UNITED STATES OF
AMERICA, CANADA, CUBA, DOMINICAN REPUBLIC,
HAITI, AND MEXICO RESPECTING REGIONAL BROAD-
CASTING, SIGNED AT HABANA DECEMBER 13, 1937

[For text of agreement, see Department of State Treaty Series
No. 962, or 55 Stat. 1005.]

ARGENTINA

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND ARGENTINA¹

611.3531/507: Telegram

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

BUENOS AIRES, August 26, 1937—6 p. m.

[Received 7:15 p. m.]

158. *La Prensa* today carries special press despatch by Heath indicating the possibility that negotiations may begin soon on a commercial agreement with Argentina.

The Argentine attitude of the moment seems more favorable toward giving us better treatment than it has been for some time and I note signs of a willingness to do more provided they have some assurances of a trade agreement being negotiated in the near future.

A few days ago the Under Secretary of Finance and the head of the Exchange Control Board² suggested to the Embassy that it might be possible to come to some verbal arrangement whereby Argentina would in fact—if not [?]³—grant official exchange to [?] our exports to Argentina for a period of say 6 months with the understanding that trade treaty negotiations begin before that time had elapsed. In case negotiations should not begin then the Argentines would revert to the *status quo ante*. A suggestion along similar lines was made on June 15 also by the Under Secretary, and formed a part of the Embassy's telegram 88, June 16, 3 p. m.³

I should appreciate any comment from the Department particularly on the likelihood of negotiations beginning.

Were the Embassy accordingly to assure the Argentines that trade negotiations would begin shortly or within some specific period, I feel that we should be able to secure better exchange treatment, if not entire relief from the present discrimination. And if possible a strong intimation of our hope would be helpful.

WEDDELL

¹ Continued from *Foreign Relations*, 1936, vol. v, pp. 174-183.

² Alfredo Louro.

³ *Post*, p. 243.

611.3531/507 : Telegram

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

WASHINGTON, September 3, 1937—1 p. m.

83. Your telegram no. 158, August 26, 6 p. m. For your strictly confidential personal information the outlook is as follows: if deliberations now in progress (partly owing to your telegram) result in an affirmative decision by policy-making officials it will be possible to announce trade agreement negotiations with Argentina within the very near future.

You will understand that although the future course of the trade agreement program is now receiving consideration, matters have not yet reached a stage permitting the Department to give a definite commitment on opening of negotiations. You may properly say, however, that a fresh study is being made of the possibility of an Argentine agreement and that there is every indication that this study will be completed shortly, perhaps within a week or 10 days. Pending a decision, it would be highly desirable of course if this Government could proceed on the assumption that the arrangement suggested by the Under Secretary of Finance could be considered a firm offer. In this connection, you should impress upon him and other responsible officials that such an arrangement would undoubtedly create a most favorable impression in the United States. You could usefully repeat the argument that the Department has been under considerable pressure from interests in the United States as a result of continuance in the face of present trade trends of exchange discrimination against them in Argentina. Correction of this situation might assist materially in forming a body of opinion in this country sufficiently influential to offset the pressure which is certain to be exerted against the agreement by various agricultural groups.

HULL

611.3531/508 : Telegram

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

BUENOS AIRES, September 7, 1937—6 p. m.

[Received 9:30 p. m.]

167. Department's 83, September 3, 1 p. m. The Embassy has already discussed the subject informally with the Ministry of Finance and I expect to discuss it personally with the Minister ⁴ himself in a day or two.

In these circumstances, I hope that if an affirmative decision to begin negotiations is reached that no intimation thereof will be given the

⁴ Carlos A. Acevedo.

Argentine representatives and no announcement made before previous discussion with this Embassy; otherwise what I consider a strong point in our position would be lost.

WEDDELL

611.3531/514 : Telegram

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

BUENOS AIRES, September 24, 1937—6 p. m.

[Received 7:12 p. m.]

182. My 167, September 7, 5 [6] p. m. The pertinent portions of the Department's telegram No. 83, September 3, 1 p. m. having been communicated to the Ministry of Finance and the Exchange Control Board, I wish to report as follows. There is still a tendency among officials here to consider existing discriminatory exchange regulations as a bargaining point. This was implied by the Under Secretary in a subsequent conversation with a member of the Embassy when he indicated that while Argentina may be willing to make the exchange offer a firm one he fears that even if announcement should be made of the trade treaty negotiations, bases for a satisfactory treaty might be lacking. Under Secretary also pointed out that any concessions which either or both sides may request would have to be made in substitution of those formulated several years ago. He went so far as to suggest the advisability of our sending a mission here to study Argentina's requests to which he was told that the concessions Argentina desired had, we imagined, in the past been sent to the Argentine Embassy in Washington.

Head of the Exchange Control Office told Ravndal⁵ yesterday that he had advised Central Bank and Under Secretary of Finance that now would be an opportune time to grant full official exchange for imports from the United States provided we gave satisfactory—though informal and not binding—assurances that trade agreement negotiations will lead up to suitable concessions to Argentina. Louro stated, however, that it was not his intention to use exchange as a lever.

I hope to see the Minister of Finance early next week.

WEDDELL

611.3531/516 : Telegram

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

BUENOS AIRES, September 29, 1937—10 a. m.

[Received 12:54 p. m.]

185. My 182 of September 24, 6 p. m. The Minister of Finance is apparently not yet ready to discuss the matter with me, the delay as

⁵ Christian M. Ravndal, American Consul at Buenos Aires.

explained by the Under Secretary being due to the Minister's desire to have in hand data from various sources.

However, yesterday afternoon I pressed the matter with the Minister for Foreign Affairs⁶ who said that he was sympathetic to my viewpoint and asked me to give him a brief memorandum which he said that he would support before the Minister of Finance. He added that the question possessed broad political aspects which financial authorities were inclined to overlook and declared that the conclusion of an agreement of even very limited range would yet constitute an opening and helpful wedge for further mutual concessions.

WEDDELL

611.3531/507 : Telegram

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

WASHINGTON, September 30, 1937—5 p. m.

91. Your telegram No. 158, August 26, 6 p. m. Unless you perceive objection please present the following confidential memorandum to the Argentine Government.

"The United States Government has carefully considered the arrangement recently suggested to the American Embassy by the Under Secretary of Finance. Its understanding of the proposal is that Argentina would grant official exchange for all imports from the United States for a period of 6 months in the expectation that trade-agreement negotiations would be initiated within that period, and that, if within 6 months such negotiations shall in fact have been begun, this exchange treatment will continue thereafter.

The United States Government is deeply gratified that the Argentine Government appears prepared to take so constructive a step at this time. It hopes that the Argentine Government will put the suggested arrangement into operation now and begin to grant official exchange for all imports of United States goods.

Although there are a number of factors in the situation which will have a bearing upon whether the United States will be able to begin formal negotiations within 6 months, among which one of the most important is the prospect for expanding foreign markets for United States agricultural products by means of additional trade agreements, it seems to the United States Government at the present time to be quite possible that events will so shape themselves that this can be done. Meanwhile, in order to facilitate the rapid conclusion of the negotiations as soon as it becomes possible to undertake them, this Government would be prepared to enter into informal and confidential discussions regarding the possible terms of an agreement. Inasmuch as similar discussions have been held in the past between

⁶ Carlos Saavedra Lamas.

the Argentine Embassy in Washington and the Department of State, it is assumed that the exploratory conversations now contemplated would be held in Washington. The Department would be pleased to commence such conversations immediately, or as soon as appropriate instructions are received by the Argentine Ambassador."

In presenting the foregoing memorandum to the Argentine Government you should emphasize that this Government is not making any information public which would indicate that trade-agreement negotiations with Argentina are impending and that in reply to any inquiries which may be received it intends to state merely that exploratory conversations in regard to trade matters of mutual interest are being carried on as they have been from time to time in the past. Please request the Argentine Government to treat the matter with similar reserve in order that the disadvantages of premature publicity may be avoided.

HULL

611.3531/520 : Telegram

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

BUENOS AIRES, October 4, 1937—1 p. m.

[Received 1:50 p. m.]

188. In view of efforts now being made in endeavor to secure in more definite form Argentine exchange proposal, I am deferring for the present delivery of suggested confidential memorandum contained in Department's 91, September 30, 5 p. m.

WEDDELL

611.3531/520 : Telegram

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

WASHINGTON, October 5, 1937—2 p. m.

92. Your 188, October 4, 1 p. m. Inasmuch as the substance of the Department's telegram no. 92 [91] of September 30, 5 p. m. has been conveyed to Ambassador Espil,⁷ with a view to enlisting his support of the program therein outlined, it is believed that you may wish to present the memorandum now without further delay, particularly in view of the last paragraph of your telegram no. 167, September 7, 6 p. m.

HULL

⁷ Felipe A. Espil, Argentine Ambassador in the United States.

611.3531/523 : Telegram

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

BUENOS AIRES, October 6, 1937—5 p. m.

[Received October 6—4:17 p. m.]

190. Department's telegram No. 92, October 5, 2 p. m. I delivered the confidential memorandum to the Minister for Foreign Affairs today and expect to discuss it with him tomorrow.

WEDDELL

611.3531/530 : Telegram

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

BUENOS AIRES, October 14, 1937—5 p. m.

[Received October 14—4:56 p. m.]

194. My 190, October 6, 5 p. m. The Minister for Foreign Affairs told me today that a commission composed of the head of the Exchange Control Board, the Chief of the Commercial Department of his Ministry and a high official of the Ministry of Agriculture would be created within a few days to study the general subject of a trade agreement and that the question of exchange discrimination against American imports would be also examined by this group.

WEDDELL

611.3531/532 : Telegram

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

BUENOS AIRES, October 20, 1937—3 p. m.

[Received 4:41 p. m.]

197. My 194, October 14, 5 p. m. I yesterday inquired of the Minister of Foreign Affairs what progress was being made by the Commission in question. He said that he was still discussing the matter with other Ministries and that his idea was that this Commission when appointed should discuss the entire subject informally and without engagement with a commission from the Embassy to be appointed by me.

I told him that I believed it was rather the view of my Government that any discussion which might be undertaken should be carried on in Washington as he would see by reference to my confidential memorandum. I added that, as I had pointed out in my note of February 6, the application of the surtax was considered by my Government as a discrimination and that I rather felt that elimination of this discrimination should take precedence over anything else. He

then showed me a telegram from Ambassador Espil dated September 29 indicating that the Department was ready to begin informal discussions but containing no reference to exchange. With regard to this latter subject the Minister for Foreign Affairs seemed to feel that to grant official exchange to all imports from the United States would upset the local exchange market. I replied that this seemed an exaggeration and that with the possible exception of automobiles I thought the effect would be slight.

A member of the Foreign Office intimated in conversation yesterday to the Embassy that he thought the first point to be taken up by any Commission which might be appointed would be whether Argentina could grant official exchange to all American imports for 6 months as previously suggested.

WEDDELL

611.3531/534 : Telegram

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

BUENOS AIRES, October 26, 1937—5 p. m.

[Received 5 : 45 p. m.]

Your October 15 [5]. I yesterday sent a personal note to Saavedra Lamas strongly stressing the importance of time element, adding that it was one which was beginning to cause me grave concern and urging him to instruct Espil to begin informal discussions in that city. I made no reference in my note to exchange or to his suggestion for local committees to discuss general subject here.

My motive in writing rather than in seeking an interview just now was to avoid further interminable and fruitless discussions and to emphasize in writing that time pressed.

WEDDELL

611.3531/547

Memorandum of Conversation, by the Chief of the Division of Trade Agreements (Hawkins)

[WASHINGTON,] October 30, 1937.

Participants: Ambassador Espil of Argentina

Mr. Sayre^{*}

Mr. Hawkins

Mr. Sayre inquired of Mr. Espil whether any information had been received regarding the removal of Argentine exchange discrimination. Mr. Espil said that he had no information from his Govern-

^{*} Francis B. Sayre, Assistant Secretary of State.

ment on this subject and went on to say that he thought there was a good deal of misunderstanding regarding this matter. He said that the removal of the exchange discriminations was not a simple problem that could be easily and quickly solved; that he felt that it could only be dealt with in relation to trade agreement negotiations. He was not very explicit as to exactly what he meant by this, but said, among other things, that at the time of announcement of trade agreement negotiations, at least something could be done about removing the discrimination, and that a complete solution of the question could be worked out in the course of the negotiations.

Mr. Sayre stated that failure of the Argentine Government to remove the discriminations at an early date would greatly increase the difficulty of trade agreement negotiations from our standpoint. He explained that the negotiation of an agreement with Argentina involved sufficient difficulties in view of the fact that it would have to provide for concessions on agricultural products, and that it is highly important that we should not go into those negotiations with the additional handicap of continued discrimination by Argentina against American trade. Mr. Sayre made it clear that he did not now lay down any condition, but that it is highly important from our standpoint that the exchange problem be adjusted at an early date, and in any event prior to any public announcement of trade agreement negotiations.

The discussion then turned to the program for further discussions on the terms of a trade agreement. Mr. Sayre emphasized that any discussion of the products involved could not of course involve any definite commitments on our part as this is not legally possible prior to a public announcement and hearings. Mr. Espil said he quite understood this. Mr. Sayre inquired whether the Argentine Government would like to add to the lists of concessions to be requested of the United States which were presented in 1933⁹ and at Buenos Aires last December.¹⁰ Mr. Espil thought it would be unnecessary to add anything to the list of requests at this time and asked whether we could not in the course of our studies consider any products which might occur to us in which the Argentine Government might be interested. Mr. Sayre told Mr. Espil that our studies on products for consideration in the trade agreement negotiations are virtually completed and that our proposals, in as definite form as they can be made prior to public hearings, would be available in a week or 10 days, or two weeks at the very latest. These proposals as to the possible terms of the agreement would include our proposals as to the text of the general provisions.

⁹ See memorandum from the Argentine Embassy, October 5, 1933, *Foreign Relations*, 1933, vol. iv, p. 661.

¹⁰ See memorandum by the Argentine Government, *ibid.*, 1936, vol. v, p. 179.

Mr. Espil indicated that the foregoing arrangement is entirely satisfactory to him. He said that a Mr. Garcia Arias who is an expert on trade matters and is now stationed in London, will be assigned to the staff of the Argentine Embassy here. Mr. Arias has not yet sailed from London and presumably will not be here before our studies have been completed. However, when the proposals are completed, they could be discussed tentatively with Mr. Espil pending the arrival of Mr. Arias. The real purpose of Mr. Arias assignment would of course be kept confidential. It will be given out that he is assigned as a regular member of the Embassy staff.

Mr. Espil then referred to the Sanitary Convention¹¹ and said that apparently there is no chance of its receiving Senate approval. In view of this he raised the question whether Section 306 of the Tariff Act¹² could not be modified by the trade agreement. He said his study of the Trade Agreements Act¹³ indicated that this can legally be done. Mr. Sayre replied that he thought it would be extremely unwise to connect the Sanitary Convention with the trade agreement as it would cause an emotional reaction against the trade agreement. He said that he had been giving some thought to the question and while he had not mentioned it to the Secretary, he was inclined to the personal view that consideration might be given to a statutory amendment of Section 306. He said that this only represented his personal thought on the subject and he was not sure whether this would be feasible.

Mr. Espil said that he had under consideration the question whether Argentine beef might not be brought into the free port at New York and distributed from there to Caribbean countries and elsewhere, and also sold to ships as ships stores. He said there was a legal question whether landing the beef at the free port would be considered "importation" within the meaning of Section 306 of the Tariff Act. Mr. Sayre offered to look into the question for him. Mr. Espil expressed his appreciation but did not press the point.

H[ARRY] H[AWKINS]

611.3531/541 : Telegram

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

BUENOS AIRES, November 2, 1937—6 p. m.

[Received 6:30 p. m.]

207. My No. 203, October 27, 3 p. m.¹⁴ The Minister for Foreign Affairs today in confirming his previous statement that Dr. Espil is

¹¹ Signed May 24, 1935, *Foreign Relations*, 1935, vol. iv, p. 296.

¹² Approved June 17, 1930; 46 Stat. 590, 689. Section 306 prohibited in certain cases the importation of cattle, sheep, swine, and meats.

¹³ Approved June 12, 1934; 48 Stat. 943.

¹⁴ Not printed.

authorized to enter into confidential and informal discussions at any time in connection with a trade agreement, said instructions in this sense had gone forward immediately following my communication to him of October 24.

My telegram No. 194, October 14, 5 p. m. The Minister has apparently abandoned or forgotten his idea of a local commission to study the subject and said that he would be glad if I would continue to discuss exchange matters with the Minister of Finance. I shall accordingly continue to urge on this Minister our desire that exchange discrimination be abolished.

WEDDELL

611.3531/542 : Telegram

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

BUENOS AIRES, November 3, 1937—4 p. m.

[Received November 3—3:50 p. m.]

210. My 207, November 2, 6 p. m., last paragraph. In the hope of expediting action I propose suggesting to the Minister of Finance in the interview which I hope to have with him very shortly that he delegate one or more persons from his Ministry to discuss with representatives of the Embassy the general question of exchange discrimination.

Such a procedure would appear to be helpful particularly in view of the Minister of Finance's tendency towards excessive delay and procrastination.

WEDDELL

611.3531/557

Memorandum of Conversation, by the Assistant Secretary of State (Sayre)

[WASHINGTON], November 12, 1937.

I called up, on the telephone, Mr. Espil with respect to the Argentine trade agreement negotiations. I told him that we were working hard on the lists of commodities which I had promised to give him during our last conversation together. I said that the lists had been prepared by one of our subcommittees but that they did not satisfy me because the list of our requests from Argentina was too inclusive. I added that I felt sure it would protract negotiations if we handed

to Argentina a list containing every concession which might be desired and that my personal idea was to cut our requests down to the minimum so as to shorten the negotiations and make practicable as early a conclusion as possible. For this reason I said that we had asked for a revision of the lists and therefore would not be able to hand him the lists quite as soon as I had hoped. I added that the preparation of the lists was being given precedence over everything else and that we hoped to hand them to him, if all goes well, by the end of next week although we could not make any definite promises to this effect. Mr. Espil replied that he understood. He said that he was anxious to get the lists at the earliest moment possible since he did not feel that he could ask his Government to send an expert here or to take any steps with respect to the trade agreement until he had the lists in his hands. He said that there had been so many delays and so often hopes for negotiations had been deferred that he did not feel in a position to communicate with his Government about the matter until he actually had the lists.

I also told Mr. Espil, in the strictest confidence, that we were very hopeful that announcement could be made of the intent to negotiate with the British Government in the very early future. I said that our hope was that we could make the preliminary announcement concerning Argentine negotiations shortly after the announcement of the British negotiations. I went on to express the hope that, when the announcement of the Argentine negotiations takes place, announcement could be made at the same time of some favorable action by the Argentine Government with respect to the exchange problem. Mr. Espil replied, as before, that he felt doubtful whether the Argentine Government could do much in this respect until actual negotiations are in progress. I explained to him how important it seemed to me that some announcement should be made at the time of the first announcement of negotiations so as to present an attack by our enemies and by an unfavorable press. Mr. Espil replied that he understood this but that he did not see how he could ask his Government, until he had the actual lists, to take any definite steps in the matter,—saying that his position, because of the protracted delays during the past four years, was very difficult.

At the conclusion of our discussion, I reiterated my statement that we would send the list now being prepared at the very earliest moment possible, and I also promised to get in touch with the Ambassador again when we know more definitely about the date of the expected announcement of the British negotiations.

F. B. SAYRE

611.3531/566

Memorandum of Conversation, by the Chief of the Division of Trade Agreements (Hawkins)

[WASHINGTON,] November 22, 1937.

Participants: Señor Don Felipe A. Espil, Ambassador, from Argentina;
Señor Don C. Alonso Irigoyen, Financial Attaché from Argentina;
Mr. Francis B. Sayre,
Mr. Harry C. Hawkins.

Mr. Sayre presented Mr. Espil with the memorandum¹⁵ indicating our position with respect to the removal of the exchange discrimination in Argentina by the date of the formal announcement of intention to negotiate the trade agreement. The ambassador argued at length and with considerable emphasis that the Argentine Government should not be asked to take "so serious" a step until it had seen how far we could go in granting concessions on Argentine products.

Mr. Sayre pointed out that the United States extends to Argentina the benefit of all tariff concessions granted to other countries in trade agreements and otherwise accords most-favored-nation treatment to Argentine commerce. It asks only that before negotiations are instituted both parties be placed on the same footing in this respect by the granting of reciprocal most-favored-nation treatment to American commerce in Argentina. He explained further that it is the settled policy of this Government not to allow discriminations against it to be used as a bargaining lever for obtaining from it specific concessions and tariff reductions, but to conduct negotiations for reciprocal tariff reductions on a basis of non-discrimination of each to the other. Hence it is not our practice to institute trade-agreement negotiations until discriminations against us have been removed.

Mr. Sayre stated further that the trade agreement with Argentina involves serious political difficulty for this Government and that this difficulty would be so greatly increased as possibly even to endanger the success of the agreement, if we entered into negotiations without first having obtained the removal of the exchange discriminations.

Mr. Espil professed to have serious misgivings as to the difficulties which our proposal would present from the standpoint of the Argentine Government, but indicated that he would submit our proposal to his Government. He then inquired concerning the lists of products which would be involved in the negotiations and was informed that we expect to have available for him by Wednesday,

¹⁵ *Infra.*

lists showing the products on which the United States would probably ask improvement in present treatment, and those on which the United States probably would ask only for a binding of present treatment.

Mr. Espil at once inquired whether we were not going to give him a list of the products on which the United States would grant concessions to Argentina. He said it had been his understanding that we would do this. He referred in this connection to an inquiry which we had made at a previous meeting when we had asked if the lists which Argentina had thus far submitted were complete and whether it was desired to add any products to them. He was informed that our purpose in making this inquiry was merely to make sure that we had a complete list of the Argentine requests as a counterpart of the lists covering our requests which we were about to give them; in other words, that our list of requests will complete the picture and that we had not anticipated any further discussion of the Argentine requests in advance of the preliminary announcement of contemplated negotiations.

611.3531/548a

The Department of State to the Argentine Embassy

MEMORANDUM

1. In the light of developments that have recently taken place in connection with the trade-agreements program, the United States Government has given renewed consideration to the question of trade-agreement negotiations with Argentina and to the question of the treatment now being accorded American commerce in respect of the terms on which foreign exchange is obtainable in Argentina, and has reached the following conclusions:

2. If the Argentine Government will assure this Government that it will grant full equality of treatment to United States products with respect to exchange allotments and rates beginning on or before the day on which the formal public notice of intention to negotiate a trade agreement is issued, this Government will issue its "preliminary" announcement of contemplated trade-agreement negotiations within a week after the receipt of this assurance.

3. The statement made in the preceding paragraph is based on the assumption that the Argentine Government is prepared to negotiate the contemplated agreement upon the basis of the unconditional most-favored-nation principle applied to all forms of trade and payments control.

4. Although the public announcement which the United States Government is prepared on this basis to make states only that negotiations

"are contemplated" and is frequently referred to as a "preliminary" announcement, its issuance is this Government's customary first step in the negotiation of trade agreements and one which it does not take unless it is confident that the ensuing negotiations can be carried without delay to a successful conclusion. The formal notice that this Government intends to negotiate a trade agreement is issued not less than five weeks after the preliminary announcement.

WASHINGTON, November 22, 1937.

611.3531/559

Memorandum of Conversation, by the Economic Adviser (Feis)

[WASHINGTON,] November 23, 1937.

Upon appointment made over the telephone, the Argentine Ambassador came in to see me, accompanied by Mr. Irigoyen, the Financial Counselor. The Ambassador wanted to discuss various points connected with the question of the possible inauguration of conversations between ourselves and the Argentine Government for a trade agreement.

The points covered were as follows:

(1) The Ambassador stated that before cabling to his Government the note which had been presented to him by Mr. Sayre he wanted to be able to advise his Government as to whether we would be willing at once to engage in informal discussions, wholly without commitment, regarding the general outlines of what the trade agreement would be like. He stated that his understanding was that we engaged in such prior informal conversations in many other instances. I replied that he had not given me previous notice over the telephone of this question and that I was not in a position to answer, but that I was sure that Mr. Sayre would be glad to consider it when he met the Ambassador again tomorrow afternoon (of which fact the Ambassador had already apprised me). The Ambassador said he was planning to raise the question again, thereby indicating that he had raised it before with Mr. Sayre, whom he believed to have indicated in turn that we would not enter into such prior informal conversations before agreeing to make formal announcement.

(2) He then asked whether, as regards the paragraph in the *Aide-Mémoire* which had been handed him suggesting that the Argentine Government give us complete unconditional most-favored-nation treatment in exchange matters, we realized that it might mean we were asking Argentina to dismantle its whole exchange control and surcharge system, and possibly even discard various bilateral agreements to which Argentina is a party. I stated that our intention was simple.

We wished to be assured that American trade would enjoy as favorable exchange treatment as the trade of any other country; and since the trade of some other countries, e. g., Great Britain, was given official exchange for virtually all its commodities and paid no surcharge tax, we felt that similarly all American trade should be given the same treatment. If that were done, our request would be satisfied. Mr. Irigoyen stated that he understood.

He raised the hypothetical question of what attitude we would take provided Argentina maintained some form of exchange control or exchange tax on specified commodities, irrespective of their origin. I replied that I could not give a definite answer offhand, but my surmise was that if the commodities were selected on the basis of some understandable and fair principle, so that it was clear there was no national discrimination, we would have no objection in principle, though we might regulate the restriction.

I arranged with the Ambassador and Mr. Irigoyen for Mr. Irigoyen to return tomorrow morning for further technical discussion of the exchange policy of Argentina and the exchange treatment accorded to this country.

(3) Just before leaving the Ambassador brought out the general question of why we could not wait to have this exchange matter settled as part of the trade agreement and I stated fairly emphatically our view that this was an injurious discrimination which the Argentine Government was in a position to rectify by its own action and without connection with trade agreement negotiations.

(4) The Ambassador asked me several scattered questions as to what might be contained in a trade agreement, and I told him that I couldn't inform him at all reliably on specific points, but he could be sure our attitude would be one of positive endeavor to find terms of agreement, as shown by our whole record in this field.

The Ambassador expressed a wish that I should be present tomorrow during his conversation with Mr. Sayre and I said that I would mention that fact to Mr. Sayre.

611.3531/555

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

[WASHINGTON,] December 6, 1937.

The Argentine Ambassador called upon me this morning at my request.

I asked the Ambassador if he had had any word since the arrival in Buenos Aires of his Financial Counselor, Mr. Irigoyen,

who flew down to Argentina last week taking with him the file of communications from the Department of State with regard to the trade agreement negotiations. The Ambassador said that he had no word as yet, although he expected to speak on the telephone to Mr. Irigoyen tomorrow, December 7. He showed me, however, an air mail letter which he had just received, dated November 30, from the Under Secretary of Agriculture in which letter Señor Brebbia expressed to the Ambassador the opinion that any elimination of exchange discrimination against the United States before the negotiations for a trade agreement had been definitely concluded would be exceedingly difficult in as much as not only was the treaty relationship between Argentina and Great Britain involved, but also every department of the Government would have to be consulted. He further alleged that in these last weeks of the life of the Government of Argentina it was obviously difficult to obtain any decision from the outgoing authorities on a matter of particular importance, especially in the present case, because the President-elect in his campaign addresses had indicated his intention of keeping exchange control intact unless the international trade situation improved to a point where the restrictions could be safely removed without detriment to Argentine interests. The salient point in the letter which the Ambassador showed me, however, was where Señor Brebbia specifically stated that in his judgment the exchange restrictions should be continued so that they might be used as a bargaining point.

The Ambassador said that he would let me know as soon as he had any word from Buenos Aires in this matter and I again reminded him of our hope that President-elect Ortiz might visit Washington before he took office but that the time was now short if he was to leave Buenos Aires in order to visit Washington and return before February 20.

S[UMNER] W[ELLES]

611.3531/556 : Telegram

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

BUENOS AIRES, December 11, 1937—1 p. m.

[Received December 11—12:20 p. m.]

241. Consulate General has learned from an official of the Ministry of Finance that the Minister of Finance has appointed a committee of five persons to study the proposals of the United States Government respecting a trade agreement forwarded by the Argentine Embassy in Washington. They are the following: Señor Ocantos Ocosta, Director General of Customs and Ports, Señor Cucarese of the Cus-

toms Service, an expert on tariff matters, Señor Louro, Chief of Exchange Control Office, Señor Torriani, Chief of Commercial Office of the Ministry of Foreign Affairs, and a representative of the Ministry of Agriculture.

WEDDELL

611.3531/565

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

No. 1851

BUENOS AIRES, December 24, 1937.

[Received December 31.]

SIR: I have the honor to confirm to the Department that the matter of the discriminatory surtax on merchandise of American origin entering Argentina without prior permit is receiving the unremitting attention of the Embassy.

Furthermore, as the Department will have gathered from my telegram No. 245 of December 17, 1 PM¹⁶ and previous communications, an inter-ministerial commission of the Argentine Government is now engaged in studying material brought here by the Financial Attaché of the Argentine Embassy in Washington with a view to determining whether this government is desirous of taking steps looking to negotiating a trade agreement with the United States.

The Financial Attaché, Mr. Irigoyen, has called twice at the Embassy, and while guarded in his statements, gave the impression that the general subject is receiving primary and active consideration and that within a relatively brief period some conclusion will be reached. This information has been confirmed in its general lines by statements made to Mr. Wilson¹⁷ of the Embassy by the Chief of the Commercial Section of the Foreign Office, who also informed him that the matter of the exchange surtax is under close study by this inter-ministerial commission. He gave Mr. Wilson further to understand that this commission would in all probability reach a decision within the next few days as to the concessions in the matter of exchange which it may be possible for the Argentine Government to accord to imports from the United States. Although Mr. Torriani stated that the subject of exchange was extremely involved and complicated, he appeared to indicate that concessions would be granted and that the list of American merchandise now being granted official exchange will be extended.

The Department will recall (see my telegram No. 210 of November 3, 4 PM) that this subject of exchange was to have been discussed by

¹⁶ Not printed.

¹⁷ Orme Wilson, First Secretary of Embassy.

a fact-finding commission made up of representatives of the Embassy and of the Argentine Ministry of Finance. However, in answer to a suggestion made by Mr. Wilson that it should be possible to discuss the exchange problem separately from the trade agreement the Under-Secretary of Finance, Dr. Saenz, clearly indicated that it is the desire of the Argentine Government to tie the exchange question and the trade agreement together (Since the foregoing was drafted the Under-Secretary of Finance has telephoned to the Embassy to the effect that inasmuch as the exchange situation is also being examined by the commission above referred to, which may solve the question promptly, it seems to the Minister inopportune for the representatives of this Embassy and his Ministry to confer just now).

To the foregoing should be added remarks made by Mr. Irigoyen in his last visit, when he said in reply to my reference to this discrimination, that the Argentine Government could not put an end to a system which had prevailed for four or five years in return for a vague hope of negotiating a trade agreement. I thought it appropriate to remark that I felt convinced that the American Government would never sign a trade agreement which would continue in effect a procedure which it had repeatedly declared in formal fashion we considered to be discriminatory. To this he replied that he assumed that under any agreement arrived at the American merchandise would be on a plane of entire equality with that of other foreign countries with which Argentina has trade agreements.

While, as will be gathered from the foregoing, the entire subject of exchange, as well as of matters relating to the possibility of initiating negotiations for a trade agreement, continues in a fluid state, the following extracts from a strictly confidential letter addressed to the Embassy by Consul Ravndal under date of December 15, reporting a conversation with the Chief of the Exchange Control Office, are thought to be pertinent:

"This memorandum (i. e., which the Department of State handed to the Argentine Embassy at Washington)¹⁸ was brought to Buenos Aires by Señor Irigoyen, Financial Secretary, and allegedly indicates, in a broad sense, what the United States would consider in the way of concessions and what it would expect in return, including abolition of the 20% surcharge upon the announcement by the United States of preliminary hearings.

"The committee's instructions are to determine first whether it would be advantageous to enter into trade agreement negotiations with the United States and then, if the question should be decided in the affirmative, to draft appropriate instructions to the Argentine Embassy at Washington concerning what should be offered in exchange for specific concessions.

¹⁸ Dated November 22, p. 225.

"Following the announcement by the United States of preliminary hearings, Argentina will, in the personal and unofficial opinion of the Chief of the Exchange Control Office, extend the list of United States products entitled to official exchange to include all electrical industry articles, hardware, plumbing fixtures, and other commodities which would gratify a large number of American exporters and build up support for a trade agreement without involving a big increase in the total grant of official exchange. (This last confirms the information submitted to the Ambassador in my letter of November 30, 1937).

"The reasons advanced as to why Argentina will not abolish the 20% surcharge on all United States products, when preliminary hearings are announced by the Department, are (1) Argentina's balance of payments position with the United States, (2) the prospects of lesser exports in 1938 than in 1937, and (3) the fact that in the cases of Finland and Czechoslovakia, countries with which Argentina has trade agreements, the 20% surcharge is still operative.

"President-elect Ortiz will be consulted by the committee and it is thought that in no event will the trade agreement be concluded until he assumes office."

Respectfully yours,

ALEXANDER W. WEDDELL

611.3531/579

The Argentine Ambassador (Espil) to the Secretary of State

[Translation]

[WASHINGTON,] December 30, 1937.

I am transmitting to Your Excellency the text of the memorandum reply prepared, by the Commission of Officials, which has been approved by the Ministries of Hacienda and of Agriculture:

"The Argentine Government has seen with pleasure the communication that the Government of the United States has considered anew the subject relative to the negotiation of an agreement of commercial reciprocity between the two countries.

"The Argentine Government hopes that the negotiations proposed by the United States Government may arrive at a happy termination thus creating a definitive basis for the removal of regulations such as that of the surcharge on foreign exchange, and others, thus contributing to the reestablishment of a régime assuring the increase of commercial exchange and the economic cooperation of the two countries in the international order.

"In that sense the emergency measures which the Government has taken in order to protect national economy owe their origin to the necessity of preventing disturbances proceeding from disequilibrium of the balance of payments produced by the difficulties which other countries have opposed to the free entry of Argentine products, especially excessive tariffs, and by disturbances in the international markets of capital.

"The Argentine Government has the firm intention of leaving them without effect as soon as the causes which have given origin to them disappear.

"The Argentine Government is disposed to grant to the United States the same treatment as that accorded to the countries which have signed commercial agreements with Argentina and in the measure that may be permitted by the availability of exchange produced by the sale of Argentine products in the United States, provided that as a result of the negotiations which that Government proposes to initiate a régime should come to be established which would allow in a regular way an adequate volume of exportation of Argentine products to that country.

"The said treatment would come into effect as soon as the Argentine Government may be in a position to determine the approximate volume of the sales of Argentine products on the United States market which would result from the negotiations proposed by the Government of the United States. Within the existing régime of control, it is indispensable to determine, although with a certain anticipation, the volume of exports in order to insure the regular and uniform adjudication of available exchange.

"In that sense, it is well to take into account the fact that the volume of the sales of Argentine products recently attained in the United States may be considered as extraordinary and of an irregular character and that it would be necessary that the said products should be the object, on the part of the Government of the United States, of a better treatment than the present in customs matters and administrative regulations, so that the said volume may be maintained in a regular and permanent way."

In case this memorandum should allow of making the preliminary announcement, this Chancellery deems that it would be well that the said announcement should be made simultaneously and in the same terms at Buenos Aires and at Washington.

611.3531/579

Memorandum of Conversation, by the Chief of the Division of Trade Agreements (Hawkins)

[WASHINGTON,] January 4, 1938.

Participants: Señor Don Felipe A. Espil, Ambassador from Argentina;
Mr. Francis B. Sayre;
Mr. Laurence Duggan;¹⁹
Mr. Harry C. Hawkins.

Mr. Sayre referred to the Argentine Government's memorandum dated December 30, 1937, (copy attached)²⁰ and said that we are not

¹⁹ Chief, Division of the American Republics.

²⁰ *Supra*.

clear as to what is meant by it. He said that our proposal had been to make our preliminary announcement of contemplated negotiations as soon as we had received assurances from the Argentine Government that the latter would abolish its exchange discriminations against the United States on the date of the formal notice of intention to negotiate. He pointed out that the Argentine memorandum referred to does not indicate whether or not the Argentine Government is prepared to give these assurances.

The Ambassador said that it is necessary before removing the exchange discrimination to estimate the probable amount of Argentine exports to the United States which would result from the agreement—not exact figures, of course, but a general estimate. He said the Argentine Government was not trying to trade the removal of the exchange discrimination for tariff concessions by this country. In other words, there is no desire on Argentina's part to use the exchange discriminations as a bargaining point.

Mr. Sayre replied that he was very glad to be assured of this because the point of principle involved is an important one; that it is a definite part of our policy not to grant tariff concessions in return for the mere removal of discriminations. He said that when the Trade Agreements Act was under consideration in Congress, the question was raised whether it would not cause other governments to take action against American trade in order to create something to offer in return for tariff concessions here; that the effect of this would be merely to bring about reductions in the American tariff without any net gain for the benefit of American exports. Mr. Sayre said that he had assured the Congressional committees that no such situation would be permitted to develop. Hence it is absolutely necessary that we adhere to our position on this point.

In reply the Ambassador again gave positive and definite assurances that the removal of the exchange discrimination would not be used as a bargaining lever to obtain tariff concessions from us; that our concessions to Argentina would be paid for with tariff concessions on American products by Argentina.

Mr. Sayre then referred to the request in the Argentine memorandum for an indication of the nature of concessions which the United States would be in a position to give and pointed out that it would be impossible to foretell what increase in trade would actually result. The Ambassador said that, while the memorandum referred to the need for estimating the increase in the volume of trade which might be anticipated, the idea actually was only to get a general picture of the extent of the concessions contemplated.

Mr. Sayre then referred to the Argentine memorandum with a view to obtaining a clarification of several points, as follows:

With reference to paragraphs 3 and 4, the Ambassador said that the statement that the exchange discriminations were emergency measures necessitated by the treatment of Argentine products by foreign countries, was only inserted for background purposes. It was not to be construed as meaning that the discriminations will be removed only when the American tariff on Argentine products had been reduced.

In regard to paragraph 5, the Ambassador explained that the reference to the availability of exchange resulting from the sale of Argentine products in the United States was not intended to imply that the trade-agreement negotiations would in any sense be on a basis of bilateral balancing; that there was no intent whatever to seek a balance of exports and imports of Argentina's trade with the United States.

With reference to paragraph 7, the Ambassador said that the reference to the need of maintaining the volume of Argentine imports into the United States through duty reductions on our part did not mean that the concessions by the United States must be such as to permit imports to be maintained at recent abnormal levels, nor that any specific guarantee would be sought that any given volume of imports would result from the agreement.

With reference to our proposal that Argentina give us definite assurances prior to the issuance of the preliminary announcement that the exchange discrimination would be removed when the formal announcement is made, the Ambassador urged that we give to him an indication of the extent of the concessions which we might grant before such assurances were given by Argentina. After extended discussion, it was agreed that if a tentative schedule of concessions were given now, it might lead to detailed discussions of the concessions requested, amounting virtually to negotiations, and thus might defer for a considerable period of time the issuance of the preliminary announcement. This would be extremely unfortunate in view of the pressure of time. It was pointed out that if Argentina should give us the assurances regarding the removal of discriminations at the time of the formal announcement and if the preliminary announcement were immediately made, discussions of the schedules could then go forward and Argentina would then be in a position to get an idea of the probable extent of the concessions to be offered by the United States. If it were dissatisfied, the formal announcement could be held up and along with it the obligation to remove the discrimination. The Ambassador finally agreed to recommend definite acceptance of our proposal and prepared the attached draft telegram²¹ to his Government which he said he would send immediately.

²¹ Not printed.

EFFORTS OF THE DEPARTMENT OF STATE TO SECURE EQUITABLE TREATMENT FOR AMERICAN INTERESTS WITH RESPECT TO ARGENTINE EXCHANGE RESTRICTIONS ²²

835.5151/622 : Telegram

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

WASHINGTON, February 2, 1937—2 p. m.

15. You are instructed to present to the Minister of Foreign Affairs ²³ a note drafted along the following lines:

My Government has instructed me to request the earnest consideration of your Excellency, and of the interested authorities in the Ministry of Finance and Central Bank of the Argentine Republic, of the possibility of allowing American trade full equality of treatment in exchange matters. It is believed that your Excellency will recognize that reconsideration of the position of your Government in this regard is particularly opportune in view of recent economic developments.

The Government of the United States has noted with gratification the greatly increased prosperity which the Republic of Argentina has been enjoying during recent months, and feels that this encouraging development is of international significance in accelerating the general progress of world recovery. It is noted that the higher prices and great volume of Argentine exports have contributed, with other factors, to an appreciable strengthening of the Argentine peso. The reported prospects seem excellent.

If our understanding is correct, foreign exchange has become available in amounts which made it possible for the Argentine Government to make special payments abroad which involved large outlays of foreign exchange by the Argentine Government, such as the repayment of foreign loans. Furthermore, the refunding at lower interest rates of much of the rest of the Argentine foreign debt, which is now being achieved in the United States as well as elsewhere, should lessen the demand on foreign exchange availabilities for foreign loan service. Despite these developments and the impression that my Government received that greater amounts have become available for the payments of imports of merchandise, severe and discriminatory exchange handicaps against American trade remain operative. The circumstances outlined make it difficult for my Government to understand the necessity for this inequality, which is contrary to the policies unanimously approved at the Conference of Montevideo ²⁴ and Buenos Aires. ²⁵

²² Continued from *Foreign Relations*, 1936, vol. v, pp. 200-219; for additional correspondence regarding this subject, see section entitled "Preliminary Discussions Respecting a Trade Agreement . . .," *ante*, pp. 213 ff.

²³ Carlos Saavedra Lamas.

²⁴ Resolution V, Economic, Commercial, and Tariff Policy, Department of State Conference Series No. 19: *Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933*, p. 196.

²⁵ Resolution XLIV, Equality of Treatment in International Trade, Department of State Conference Series No. 33: *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. 240.

It will be recalled that in June 1936 the Argentine exchange control authority broadened the list of American commodities entitled to exchange at the official rate. The announcement at this time of further action by the Argentine Government towards the complete abolition of exchange discrimination against the United States would have a favorable effect on public opinion in the United States and strengthen still further the traditional bonds of commerce and friendship between the two countries.

Accept, et cetera.

HULL

835.5151/623 : Telegram

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

BUENOS AIRES, February 4, 1937—midnight.

[Received February 4—9 p. m.]

16. I delivered yesterday to the Minister of Foreign Affairs a note substantially following the draft indicated in the Department's 15, February 2, 2 p. m., except for an addition to the effect that by exchange matters my Government refers obviously not only to exchange control but also to the 20 per cent surcharge. The Minister promised to give the note prompt consideration.

With his approval I also handed a copy to the Minister of Finance.²⁶ On reading it the latter reiterated his recent statements to me, namely:

1. That although there is a possibility of the abolition of exchange control there is no immediate prospect of this.

2. That abolition of exchange control would not entail the abolition of the 20 per cent surcharge on goods not receiving previous import permits and that this latter system must be retained to secure a measure of control over imports.

3. That it is the policy of the Argentine Government to grant as much official exchange as is created by the purchase of Argentine goods and that this rule was being applied impartially to all countries.

I emphasized with the Finance Minister the importance of public opinion in the United States, as set forth in the Department's concluding paragraph. In this connection I also told him that I hardly thought my Government would admit the 20 per cent surcharge as a bargaining point in any trade agreement discussions. The Minister promised to discuss at once with the Foreign Office the note I gave him and to send me a memorandum at an early date.

I have also been recently pressing the Minister for an extension of the list of commodities granted official exchange; this he intimates is contingent upon negotiations for a trade agreement.

²⁶ Roberto M. Ortiz.

Figures for 1936 showing the amount of official exchange allowed the United States (1) for exports to Argentina and (2) for debt and other services are promised within a fortnight by exchange control office.

While I am doing my utmost to secure the abolition of exchange control and the elimination of other discriminations against our trade, it is my impression that Argentina will insist upon substantial concessions from us before any favorable action will be taken, due among other things to the protective character of the 20 per cent surcharge as regards British exports to this country. Possibly Argentina might be more lenient if there was some assurance that the British Government would not insist upon a too strict interpretation of the Anglo-Argentine trade agreement.²⁷

I respectfully suggest that the Department, particularly in view of the recent visit of Mr. Runciman,²⁸ might find it worth while to explore in London this aspect of British-Argentine relations.

WEDDELL

835.5151/623 : Telegram

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

WASHINGTON, February 8, 1937—2 p. m.

20. Your 16, February 4, midnight. Please report by cable what specific provisions in the Anglo-Argentine agreement you have in mind in your statement that "Argentina might be more lenient if there were some assurance that the British Government would not insist upon a too strict interpretation of the Anglo-Argentine trade agreement".

HULL

835.5151/627 : Telegram

The Chargé in Argentina (Wilson) to the Secretary of State

BUENOS AIRES, February 11, 1937—3 p. m.

[Received 5:30 p. m.]

21. Department's telegram No. 20, February 8, 2 p. m. Article 9 of the Anglo-Argentine agreement gives the right to either party to abrogate the agreement should either Government take any measure "liable to upset the equilibrium resulting from this agreement". This equilibrium is interpreted as meaning the allocation of sterling exchange in accordance with article 4 paragraph 1 of the agreement

²⁷ Signed December 1, 1936; for text of treaty see British Cmd. 5324, Argentina No. 1 (1936).

²⁸ Walter Runciman, President of the British Board of Trade.

which presupposes that all British exports to Argentina will receive exchange at the official rate. Argentina during the past few years has had a favorable balance of trade with Great Britain with an approximate ratio of more than 2 to 1. While it is difficult to estimate even roughly how much British trade would suffer with the removal of 20 per cent surcharge, there is no doubt that it is of material assistance to British exports. When the 20 per cent surcharge was voluntarily imposed by the Argentines they made it clear that one of its principal purposes was to favor Great Britain in a policy of bilateral trade.

It might be that in conversations with us relating to the conclusion of a trade agreement, Great Britain might be willing to forego a strict allocation of sterling exchange provided under article 4 and might also be willing to favor the discontinuance of the 20 per cent surcharge. Such assurances by the British Government would take from the Argentines one of their principal arguments for the maintenance of the surcharge. I believe, however, that it would require either such assurances on the part of Great Britain or else substantial trade concessions from us before the Argentines would even consider relinquishing the 20 per cent surcharge which has become such an important and integral part of their present trade policy.

WILSON

835.5151/638 : Telegram

The Consul General at Buenos Aires (Burdett) to the Secretary of State

BUENOS AIRES, March 5, 1937—10 a. m.

[Received March 5—9:45 a. m.]

Because of representations made by the Government-owned oil company, the Argentine Government has decided to grant between 5½ and 6 million pesos of official dollar exchange to importers of American crude petroleum in 1937. Have informed the Embassy.

Air mail report follows.

BURDETT

835.5151/642

The Chargé in Argentina (Wilson) to the Secretary of State

No. 1517

BUENOS AIRES, March 5, 1937.

[Received March 12.]

SIR: I have the honor to report that in the course of an informal conversation held recently, Dr. Louro, head of the Exchange Control Board, informed Consul Ravndal in strict confidence that the Minister

of Finance had forwarded to him for comment the Embassy's note of February 3, 1937.²⁹ Dr. Louro stated that prior to receiving the Embassy's note he had submitted a detailed report to the Finance Minister recommending that several articles be taken off the list of American commodities entitled to official exchange. He added that he had pointed out to the Finance Minister that during the past few months the number of applications for prior permits to purchase dollar exchange at the official rate had grown to such proportions that it would be dangerous to maintain the list of preferred articles at its present scope. He advised the Minister that while prospects for 1937 are bright, 1938 might prove to be a bad year and that, therefore, it would be wise to utilize the present to build up a substantial reserve fund to protect the country's finances in periods of adversity. Dr. Louro declared that he is therefore going to recommend to the Finance Minister with reference to the Embassy's note that the Finance Minister reply to the Embassy that the Argentine Government regrets not only that it cannot comply with the wishes of the United States Government but also that it must reduce the number of articles which hereafter will be considered as entitled to official dollar exchange pending the negotiation of a trade agreement with the United States.³⁰ Dr. Louro is drawing up a list of American commodities which he feels should be taken off the preferred list. He expressed the belief that the Minister would agree with his recommendations.

He stressed that the projected reduction of the preferred list is not designed to bring pressure towards ratification of the Sanitary Convention and the announcement of trade agreement negotiations.

I am endeavoring to obtain discreetly further information on this subject and expect to see the Minister shortly.

Respectfully yours,

ORME WILSON

835.5151/651 : Telegram

The Chargé in Argentina (Wilson) to the Secretary of State

BUENOS AIRES, April 2, 1937—5 p. m.
[Received 6:35 p. m.]

45. My 43, March 17, noon.³¹ After repeated efforts I saw Minister of Finance this afternoon. He told me that by April 15 the final figures giving the exports to the United States for November and December will be prepared. On the basis of these statistics he will inform the Embassy whether it will be possible to increase the amount of official

²⁹ For substance of this note, see telegram No. 15, February 2, 2 p. m., to the Ambassador in Argentina, p. 235.

³⁰ See pp. 213 ff.

³¹ Not printed.

exchange available for imports of American merchandise and to widen the present list of commodities entitled to official exchange.

I emphasized the prosperous condition of Argentina and the importance of Argentine-American commerce. The Minister said that the Argentine Government wanted to do its part to improve the friendly atmosphere which should prevail during possible negotiations for a trade agreement.

WILSON

835.5151/651 : Telegram

The Secretary of State to the Chargé in Argentina (Wilson)

WASHINGTON, April 24, 1937—3 p. m.

34. Your 45 April 2, 5 p. m. Please make further inquiry of the appropriate authorities as to when a reply may be expected to the Embassy's note of February 3, pointing out that this Government is being subjected to increasing pressure from American interests who are becoming increasingly resentful of the exchange discrimination against American trade.

HULL

835.5151/674 : Telegram

The Chargé in Argentina (Wilson) to the Secretary of State

BUENOS AIRES, May 10, 1937—4 p. m.

[Received 5:26 p. m.]

67. My 58, April 28, noon.³² A personal letter which I addressed to the Minister of Finance last week requesting an interview remains unanswered. It appears obvious to me that both he and Louro, head of the Exchange Control Board, are intentionally delaying and wish to avoid discussing the question of removing exchange discrimination either entirely or partially. A few days ago Louro told Ravndal³³ that the Department's note had remained unanswered due not only to incomplete statistics for 1936 (see my telegram 45, April 2, 5 p. m.) [but] also to the desirability of waiting for the prospects for creation of official marginal exchange during 1937.

I believe that the Argentine authorities are attempting in this manner to force us to negotiate this subject with them as a part of the contemplated trade agreement and that the only way now to secure better exchange treatment would be to inform Saavedra Lamas and the Finance Minister and interested officials of the Foreign

³² Not printed.

³³ Christian M. Ravndal, Consul at Buenos Aires.

Office and the Ministry of Finance that a removal of exchange discrimination would secure much needed support in the United States in any negotiations toward a trade agreement and that a continuance of the present exchange treatment would seriously hamper such negotiations.

At the time that I convey the foregoing to Saavedra Lamas verbally and also possibly by note, similar information given by the Department to Espil³⁴ might have salutary effect.

Instructions requested.

WILSON

835.5151/674 : Telegram

The Secretary of State to the Chargé in Argentina (Wilson)

WASHINGTON, May 12, 1937—5 p. m.

37. Your 67, May 10, 4 p. m. Although the Department does not consider it advisable to proceed at this time as suggested in your telegram, please continue your oral representations to the appropriate Argentine authorities along the lines set forth in the Embassy's note of February 3 and the Department's telegram No. 34, of April 24, 1937. Please continue to telegraph important developments.

HULL

835.5151/681 : Telegram

The Chargé in Argentina (Wilson) to the Secretary of State

BUENOS AIRES, May 21, 1937—11 a. m.

[Received 11:45 a. m.]

71. Yesterday afternoon, at the suggestion of the Minister of Finance, I saw Louro, Chief of Exchange Control Board, with reference to Department's note of February 3. At outset Louro stated that Espil's speech at New York on May 19 set forth exactly the Argentine Government's viewpoint. Louro emphasized that although the Argentine authorities recognized the favorable balance of trade with the United States they considered this of relatively minor importance and were of the opinion that any concessions towards relaxation of exchange control must be based on the conclusion of a treaty. I gathered that it is Argentina's present policy to assure stable markets for her primary products through the conclusion of treaties with consuming nations and that such countries thereby obtain preferential exchange treatment. He added that if the United States should conclude such a treaty the question of exchange discrimination would be automatically solved.

³⁴ Felipe A. Espil, Argentine Ambassador in the United States.

I repeated to Louro pertinent portions of the note of February 3 and inquired when an answer could be expected. I referred to the desirability of an extension of the list of American imports now entitled to official exchange pointing out that American exporters are resentful of the discrimination to which they are being subjected and indicating that more liberal treatment in this respect would improve sentiment in the United States towards a possible trade agreement and commercial relations in general. In conclusion Louro explained to me that the reply to our note of February 3 depends upon the Minister who has been very busy with the preparation of the budget for 1938. I expressed the hope of an early answer. He said that he would convey my remarks to the Minister.

WILSON

835.5151/685

The Chargé in Argentina (Wilson) to the Secretary of State

No. 1609

BUENOS AIRES, May 21, 1937.

[Received May 28.]

SIR: With reference to my telegram No. 71 of May 21, 11 a. m., I have the honor to state that on May 19 Mr. Clark, the Commercial Attaché, and I saw Mr. Louro the Chief of the Exchange Control Board. This visit was made in pursuance of a suggestion from the Minister of Finance in reply to a letter which I addressed to him on May 13 stating that inasmuch as I had received no reply to my written request of May 5 for an interview, the Minister might, in view of his numerous engagements, find it more convenient for me to see some person in his Ministry authorized to discuss the subject of exchange. In designating Mr. Louro as the person whom I should see, the Minister stated that he would be willing to see me at a subsequent date.

As stated in my aforementioned telegram, Mr. Louro did not indicate definitely when the Argentine Government would answer the Department's note of February 3, saying that this depends on the Finance Minister. He spent considerable time defending the Argentine viewpoint on the subject of granting official exchange to American importers, the substance of his argument being that Argentina, since it is a producer of raw materials subject to the vicissitudes of climate, markets and prices which do not affect manufactured goods, must protect the former by means of bilateral commercial agreements in which special exchange treatment is granted by Argentina. In view of these agreements it was impossible to accord similar treatment to countries with which no such conventions had been concluded. He referred with evident chagrin to the delay which has occurred in the

ratification of the Sanitary Convention,³⁵ although he expressed his appreciation of the Secretary's efforts, and dismissed as commercially unimportant the unconditional most-favored-nation treatment accorded to Argentina by the various bilateral trade agreements recently entered into by the United States.

During the conversation I referred specifically to the argument set forth in the note of February 3 and the Department's telegram No. 34 of April 24, pointing out that I have been informed by my Government that much resentment is prevalent among American importers owing to the exchange discrimination to which they are being subjected. I gave him a list of leading American articles of import which do not receive official exchange and stated that I hoped this information would be helpful to the Argentine authorities should they conclude to extend the list compiled last year, adding that if more liberal treatment were granted, the resentment to which the Department referred would very probably be lessened and that this result would tend to be beneficial in the event conversations looking to the conclusion of a trade agreement should be initiated.

Mr. Louro then asked whether he should understand by this that a commencement of negotiations for a commercial treaty was contemplated, to which Mr. Clark and I replied categorically that he should not. I consider, however, that this inquiry reveals the interest in the subject which prevails among Argentine officials.

Yesterday evening I had occasion to discuss informally the subject of trade relations with the Minister of Agriculture. He said that if the Sanitary Convention were not ratified, Argentine interest in a commercial agreement would be greatly lessened, but he did not intimate that Argentina would in such an instance decline to negotiate. Nevertheless it is very definitely apparent that the moral factor inherent in the ratification of the Sanitary Convention looms very large in the Argentine mind.

Respectfully yours,

ORME WILSON

835.5151/696 : Telegram

The Chargé in Argentina (Wilson) to the Secretary of State

BUENOS AIRES, June 16, 1937—3 p. m.

[Received 4:47 p. m.]

88. My 71, May 21, 11 a. m. In conversation yesterday between a member of the staff and the Under Secretary of Finance, Dr. Louro of Exchange Control Office had prepared a memorandum for the

³⁵ Signed May 24, 1935, *Foreign Relations*, 1935, vol. iv, p. 296.

Minister of Finance on the subject of my interview of May 20. Saenz stated that the Minister, Louro and himself would confer on this memorandum after which the Minister would ask me to see him.

During conversation Saenz stated that he was aware of unfortunate impression created in the United States by the exchange discrimination. He thought that without a trade agreement it would be very difficult for Argentina to grant official exchange on all imports owing to the various treaties Argentina has concluded with other countries. He suggested, however, that it might be possible for Argentina to abolish exchange discrimination until the end of the negotiations for a trade agreement, implying thereby that such discrimination would be reestablished if such negotiations are unsuccessful.

Owing to political developments here it is probable that Ortiz will soon resign as he is a candidate for the Presidency. I hope, however, that I shall see him before this takes place.

WILSON

835.5151/706

The Chargé in Argentina (Wilson) to the Secretary of State

No. 1656

BUENOS AIRES, July 2, 1937.

[Received July 9.]

SIR: I have the honor to report that I was received this afternoon by Dr. Acevedo, the new Minister of Finance, with whom I discussed the discriminatory treatment which Argentina is now according to imports from the United States.

During the course of the conversation only the general aspect of the subject was touched upon as Dr. Acevedo stated he had been so busy receiving great many visitors who came to offer him their good wishes that he had been unable to give much time to the actual business of his Ministry. Nevertheless I outlined to him the Embassy's note of February 3rd, emphasizing to him the many complaints that were being received by the Department from American exporters. I said that this discrimination was occasioning an atmosphere not entirely favorable to Argentina and went as far as to express as my own personal opinion that if this discrimination could be entirely removed or if at least the list of articles now receiving official exchange could be augmented the effect which this would have on opinion in the United States would be a happy one and might be helpful if negotiations for a commercial agreement should at any time be undertaken. I requested that if the Argentine Government should not be willing to remove the discrimination entirely it should at least increase the aforementioned list.

Our conversation also touched on the trade balances between the two countries. I pointed out to him that for several years Argentina's

position in this respect had been satisfactory and that in view of the considerable variety of articles which the United States had been purchasing from Argentina it might be expected that the latter's position would not be as unfavorable as it had been in the past. He acknowledged that the American trade was a desirable one and said that he would like to see a commercial agreement concluded in order to protect Argentine exports to the United States. He made much of the argument, however, that the extraordinarily favorable balance of trade which Argentina is now enjoying had been in existence only during the present year and added that in order correctly to estimate how much official exchange could be given to American imports it would be necessary to ascertain the status of the invisible trade balances. In connection with the latter I reminded him of the greatly reduced debt services which Argentina now had to meet in the United States. He conceded this point but said that he wished to study the matter and that as soon as he had done so he would ask me to see him again.

Dr. Acevedo and I also discussed the commercial agreements which Argentina had recently been concluding with other countries. He pointed out to me the strictly bilateral character of these agreements as regards exchange and said that, although he favored the multi-lateral theory of trade advocated by Secretary Hull, Argentina had been forced into concluding bilateral treaties owing to the uncertainty of the trade situation throughout the world. I inquired whether in the event of negotiations with the United States for a commercial agreement the matter of official exchange would form a part of these negotiations. He answered in the affirmative, indicating that the Argentine Government desired to handle this matter as far as the United States is concerned in the same manner as it had done in its agreements with other countries.

Although, as stated above, I was unable to obtain from Dr. Acevedo any statements indicating definitely that relief would be granted to American exporters it has seemed to me advisable to transmit to the Department the leading points of my conversation with him in order to give an indication of his attitude toward the commercial relations between his country and the United States.

Respectfully yours,

ORME WILSON

835.5151/722 : Telegram

The Consul at Buenos Aires (Ravndal) to the Secretary of State

BUENOS AIRES, August 16, 1937—6 p. m.

[Received 7:04 p. m.]

For Duggan. The Chief of the Argentine Exchange Control Office informed me privately today that the Argentine authorities will reply

to the Embassy's note of February 3 that it cannot grant more official exchange merchandise imports from the United States but in view of the representations of United States "will not for the time being reduce the present scale of allotments for such imports["]". Allegedly it is doing this "much" in the hope that the United States will soon initiate trade agreement negotiations with Argentina. If such negotiations are not proposed by the United States within a reasonable time allegedly less official exchange than at present will be granted. Letter follows.

RAVNDAL

835.5151/726

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

No. 1710

BUENOS AIRES, August 20, 1937.

[Received August 30.]

SIR: I have the honor to recall to the Department its telegraphic instruction No. 16 [15] of February 2, 1937, 2 p. m., directing me to present to the Minister for Foreign Affairs a note along the lines indicated therein relative to securing for American trade equality of treatment in exchange matters. It will be recalled that immediately after presenting this note, in accordance with the above instruction, I departed from Argentina on leave.

During my absence, as is evident from communications exchanged with the Department, this important subject was carefully pursued by the Embassy, and since my return I have persisted in efforts to obtain some action from the Argentine Government.

On August 18 I again discussed the matter with the Minister for Foreign Affairs, going over all the arguments contained in the Department's telegraphic instruction of February 2.

The Minister, whose attitude at the moment was doubtless deeply influenced by the repercussion of events in connection with the proposed lease of destroyers to Brazil,³⁶ professed entire agreement with the Department's views in their general lines, and said that he would speak to the Minister of Finance on the subject. Following this and after further discussion he telephoned to the Finance Minister in my presence making an appointment for me to see him. In his telephone conversation he pointed out to this official that the application of discriminatory exchange regulations against the United States was calculated to harm commercial relations and urged him to weigh the political aspect of the entire subject.

I called the Finance Minister on August 19 and went over the ground with him, emphasizing that the essence of our complaint was against what we considered the discrimination being practiced, which involved

³⁶ See pp. 149 ff.

a wrong principle in international commercial relations, the latter a viewpoint which Argentina shared, as evidenced by its attitude at the December conference.

The Minister of Finance, Dr. Acevedo, then said that he wished to emphasize to me that the attitude of his Government toward the United States was most friendly and that the application of the discriminatory features of the exchange regulations ran equally against all countries which did not have some commercial arrangement with Argentina. I countered this by pointing out that the merchants of certain countries with which they had no trade agreement but who were heavy purchasers in the Argentine market had no difficulty in obtaining official exchange. Without attempting exactly to refute this, the Minister remarked that it must be borne in mind that a presidential term was ending, that exchange control in one form or another had lasted for nearly six years, and that it was simply out of the question for the outgoing Administration to strip the incoming Government of measures which the present one was applying and had applied with a degree of success. Speaking further he said that the various restrictive measures which they had taken had been forced on them by world events for which they were in no way responsible.

The practical result of my visit was that the Minister asked me to let him have a memorandum of those articles whose importation appeared to be most adversely affected by the application of the twenty per cent. surtax of which I had complained. The request for this information, which in fact had already been given the Finance Ministry some months ago, might at least indicate an intention on the part of the Argentine Government to adopt a more liberal attitude in the granting of official exchange, while maintaining the principle against which my arguments were in large measure directed; but this is only a surmise.

The Department will be promptly informed of any further developments in this matter, which, it is assured, is receiving the constant attention of the Embassy.

Respectfully yours,

ALEXANDER W. WEDDELL

835.5151/752 : Telegram

The Consul at Buenos Aires (Ravndal) to the Secretary of State

BUENOS AIRES, November 5, 1937—4 p. m.

[Received 4:27 p. m.]

During the first 9 months of 1937 Argentina granted for merchandise imports from the United States more than double the amount of official dollar exchange granted in the corresponding period of 1936.

The actual increase was over 80,000,000 pesos. Copies of statistics furnished Embassy and Commercial Attaché. Analysis follows by air mail.

RAVNDAL

635.5151/767 : Telegram

The Consul at Buenos Aires (Ravndal) to the Secretary of State

BUENOS AIRES, December 31, 1937—2 p. m. [*a. m.?*]
[Received December 31—9 : 30 a. m.]

Argentina has decided to grant complete official exchange coverage for United States merchandise provided that the United States offers concessions in its trade agreement which will insure the creation for Argentina of a satisfactory quantity of official dollar exchange.

Upon the signing of the trade agreements with the United States Argentina will abolish the 20% surcharge altogether providing that Japan agrees not to sell more than a given amount in Argentina.

RAVNDAL

835.5151/768 : Telegram

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

BUENOS AIRES, December 31, 1937—1 p. m.
[Received 1 : 21 p. m.]

249. Referring to the Consul's telegram of December 31, 2 a. m., he now informs me that he was informally advised last night by a member of the Argentine Inter-Ministerial Commission that the latter had just informed the Argentine Ambassador in Washington by telephone that the Argentine Government is prepared, immediately following the preliminary announcement of negotiations, to grant complete official exchange coverage for all United States merchandise with the understanding that the trade agreement to be concluded shall provide a reasonable prospect of the creation of a "satisfactory" amount of dollar exchange.

The Consul's telegram above referred to should be read in the light of the present telegram, which he has seen.

WEDDELL

BOLIVIA
REVOLUTION IN BOLIVIA; RECOGNITION OF THE BUSCH
GOVERNMENT

824.00/809

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 271

LA PAZ, July 9, 1937.
[Received July 16.]

SIR: I have the honor to refer to my despatch No. 261, dated June 25, 1937,¹ and to the several additional despatches since the beginning of this year reporting the friction between the President, Colonel David Toro, and the Chief of the General Staff, Lt. Colonel Germán Busch; that is, between the older and the younger groups of Army officials.

I have been strictly confidentially informed by the La Paz representative of the largest Bolivian mining group that there is a definite agreement between a group of younger officers, headed by Busch, and the National Federation of Ex-Combatants, to oust the present Junta of Government. The agreement provides that General Enrique Peñaranda, Commander of the Bolivian Army, is to take control of the country in the name of the Army at an opportune time. He is then to inquire of the Army officers who they desire as leader, following which Busch will be called upon to select a provisional government. My informant believes that this move will take place in the course of the next two weeks. It appears that certain mining interests are backing this movement.

Another informant confirmed the existence of this coalition, but it is his opinion that Busch prefers to delay matters for a time hoping that some settlement may be arrived at concerning the Chaco.

Reference is made to despatch No. 120, dated January 18, 1937,¹ reporting that the Federation of Ex-Combatants had broken up into segments. Recently the ex-combatants have been reorganized under the title of "National Federation of Ex-Combatants", and have elected Colonel Busch as their supreme chief. A mass meeting of all ex-combatants has been called for July 10th, at which Busch is to publicly assume office.

On July 5th Lt. Colonel Busch left La Paz by airplane ostensibly for Concepción, a small village to the north of Santa Cruz, where his

¹ Not printed.

father resides, but most likely to appraise his position in the Oriente and in the Chaco. When his 'plane was lost for some forty-eight hours, having been forced down by bad weather, a whispering campaign developed in La Paz that probably the Junta of Government had arranged foul play to get rid of him.

Respectfully yours,

JOHN J. MUCCIO

824.00/800 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 13, 1937—6 p. m.

[Received 8:09 p. m.]

37. Toro left La Paz last Thursday for health resort and did not return Monday as previously announced. Rumors persist that he is not being permitted to return and that manifesto replacing Toro by Busch will probably be issued tonight. Repeated to Buenos Aires.³

MUCCIO

824.00/801 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 14, 1937—8 a. m.

[Received 8:50 a. m.]

38. My telegram No. 37, July 13, 6 p. m. Toro resigned late last night after army withdrew its support. Provisional Presidency turned over to Busch. All Junta members now in Bolivia have also resigned. Complete tranquility in La Paz and no disturbing news from other centers.

Repeated to Buenos Aires.

MUCCIO

824.00/802 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 14, 1937—1 p. m.

[Received 4:20 p. m.]

39. By radio this noon Lieutenant Colonel Germán Busch as Provisional President read brief message to Nation assuring respect for international agreements, no special privileges to groups or interests, and requesting the support of all ex-service men and genuine patriots.

³ To the United States delegate, Spruille Braden, at the Chaco Peace Conference, being held at Buenos Aires; see pp. 4 ff.

Announced Junta of army officers and three civilians including Enrique Baldivieso as Minister of Foreign Affairs.

Civilian appointees reflect support of Socialists, Republican Socialists, and mining interests.

La Paz tranquil. Repeated Buenos Aires.

MUCCIO

824.00/803 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 14, 1937—6 p. m.

[Received 7 : 34 p. m.]

40. Referring to my telegram No. 39, July 14, 1 p. m., only pertinent part of Busch manifesto to nation is:

"1. The new Government will continue the traditional policy of peace, giving strict and permanent fulfillment to the international treaties in force.

2. In the international aspect, it will maintain public order, respect private property legally acquired, and at the same time maintain the principle of not permitting private interests to sacrifice any longer the collective interests."

Of the nine military members of the Junta only two were carried over from previous administration. Moderation of Busch manifesto and character of the three civilian members appointed have created a general favorable impression.

Repeated to Buenos Aires.

MUCCIO

824.00/804 : Telegram

The Chargé in Argentina (Wilson) to the Secretary of State

BUENOS AIRES, July 14, 1937—6 p. m.

[Received 7 : 33 p. m.]

98. From Braden. La Paz' 39, July 14, 1 p. m. Baldivieso here. Has not yet received official offer portfolio of Foreign Affairs but will probably accept though not sure whether by telegraph or after discussion in La Paz with Busch. He is well-informed on the Chaco, believes best chance for a settlement is through direct negotiations rather than arbitration, and will discuss matter thoroughly with us before leaving for La Paz next Wednesday. My impression is that he should be an improvement over Finot. Alvístegui ⁴ has received

⁴David Alvístegui, Chairman of the Bolivian delegation to the Chaco Peace Conference.

cable from Busch reiterating complete confidence and requesting that he remain as president of Bolivian delegation. Alvístegui has accepted. [Braden.]

WILSON

824.00/807 : Telegram

The Chargé in Argentina (Wilson) to the Secretary of State

BUENOS AIRES, July 15, 1937—3 p. m.

[Received 4:55 p. m.]

99. From Braden. Saavedra Lamas⁵ absent from Buenos Aires until Monday but Foreign Office officials seem to feel that the new Bolivian Government will require recognition. My Brazilian colleague, however, has cabled his Government that since we are treating with a *de facto* government created by virtue of a mandate emanating from the army and as that same army appointed Busch for the same duties when Toro resigned there should be no need for a new recognition which would entail delays in the Chaco negotiations.

Since Saavedra Lamas, egged on by the Paraguayans, might endeavor to create further delay in our negotiations using recognition as an excuse, I respectfully recommend that if relations are not automatically continued with Busch regime that recognition be accorded at the earliest possible moment. My Peruvian colleague believes his Government will not consider recognition necessary. Have not yet been able to consult with Chilean and Uruguayan delegates.

My No. 98, July 14, 6 p. m., Baldovino informs me that he has cabled Busch requesting permission to reply regarding appointment on his arrival in La Paz on July 24. He is somewhat doubtful whether he will accept. . . . He will condition acceptance on elections for constitutional government being held by December. However, Alvístegui believes he will wind up by accepting although he would prefer a more political portfolio than that of Foreign Affairs. [Braden.]

WILSON

824.00/806 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 15, 1937—6 p. m.

[Received 7:25 p. m.]

43. Referring to Department's telegram No. 19, July 15, 1 p. m.,⁶ the Legation has not received any communication from the Ministry of

⁵ Carlos Saavedra Lamas, Argentine Minister for Foreign Affairs, Chairman of the Argentine delegation to the Chaco Peace Conference, and President of the Conference.

⁶ Not printed.

Foreign Affairs announcing change in the Government or requesting recognition.

Associated Press release published this morning quotes the Secretary of State as having stated that he believed that it is not necessary for the United States to consider the question of recognition.

All members of Junta now in La Paz took oath of office July 14, 3 p. m. La Paz and apparently entire country normal.

Repeated to Buenos Aires.

MUCCIO

824.01/57 : Telegram

The Chargé in Argentina (Wilson) to the Secretary of State

BUENOS AIRES, July 16, 1937—noon.

[Received 2:44 p. m.]

101. From Braden. It would be appreciated if the Department could give me some indication as to whether it considers formal recognition of the Busch regime in Bolivia to be necessary. [Braden.]

WILSON

824.00/810 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 16, 1937—5 p. m.

[Received 11:45 p. m.]

44. La Paz continues superficially tranquil but disquieting factors are (1) Toro forcibly deported to Arica yesterday, (2) senior military officers friendly to Toro also being deported, (3) rumors that certain army units are not fully for Busch, (4) student federation last night started march to Palace to petition Busch for return to constitutional government. Military officer met them en route and told them they would be fired upon should they appear before Palace whereupon they disbanded, (5) following banquet at La Paz Club in honor of Peñaranda ' last night heated arguments for and against Busch ended in the killing of at least three civilians either by young military officers present or by military police called in to quell disturbance.

Repeated to Buenos Aires.

MUCCIO

824.01/55 : Telegram

The Secretary of State to the Chargé in Bolivia (Muccio)

WASHINGTON, July 16, 1937—7 p. m.

20. Your 43, July 15, 6 p. m. The Associated Press release referred to in the second paragraph of your telegram was based upon the

¹ Gen. Enrique Peñaranda, Commander in Chief of the Bolivian Army.

Secretary's first statement, but the Secretary issued a subsequent statement the same day in which he observed that later information and further study of the matter made it appear that consideration might have to be given to the question of recognition.

From this further study, it would appear that recognition will be necessary. Please telegraph at once your views as to whether the new government meets the criteria of our recognition policy (see Moore's *Digest*).⁸ The manifesto quoted in your 40 July 14, 6 p. m. indicates the intention of the Bolivian Government to respect its international obligations and the legitimate rights of private property. Please report by telegram upon the following points:

- (1) The probable stability of the new Government and its ability to maintain public order;
- (2) Indications with regard to public support of the government or of effective opposition to it;
- (3) Any available information regarding the attitude of other countries on the question of recognition of the new government; and,
- (4) Any available information as to what steps, if any, the new government intends to take to secure recognition.

HULL

824.00/823

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 280

LA PAZ, July 16, 1937.

[Received July 24.]

SIR: I have the honor to refer to my telegram No. 38, dated July 14, 1937, 8 a. m., reporting the resignation of Colonel David Toro R., President of the Military Junta of Government of Bolivia, during the night of July 13th.

The resignation of Colonel Toro marks the culmination of the struggle between Colonel Toro and Lt. Colonel Busch, the Chief of the General Staff. It could be seen from the speech delivered by Colonel Busch before the National Federation of Ex-Combatants on July 10th (See despatch No. 272, dated July 12, 1937⁹), that the existing tension could not last much longer. The ideas expressed in that speech and the rumors which had been circulating in La Paz for some time indicated more or less clearly that Colonel Busch had decided to make a definite break with his chief. With the backing of the ex-service men and the students, as well as the younger army group which has always followed Colonel Busch, the move was accom-

⁸ John Bassett Moore, *A Digest of International Law*, vol. I, pp. 72 ff.

⁹ Not printed.

plished without incident although somewhat sooner than had first been thought probable.

Colonel Toro, accompanied by his family and the Minister of Labor, had left La Paz on July 9th for Urmiri, a health resort some 100 kilometers from the city. It cannot be doubted that he was aware of the fact that an attempt might be made against his government but he apparently did not believe that it would take place at this particular time.

As the movement had apparently progressed rapidly during the absence of Colonel Toro and as he did not return, a commission left La Paz for Urmiri on the afternoon of July 13th to demand his resignation. However, before the commission was able to reach him he had returned to La Paz, and he immediately went into consultation with the personnel of the former government. General Peñaranda, the Commander in Chief of the Army, and Colonel Busch both attended this meeting, during which they told Colonel Toro that the army had withdrawn its confidence in him. Their statements were supported by the officers of the La Paz garrison, who had met in the offices of the General Staff and later proceeded to the Palace to announce their stand and their support of Colonel Busch.

Shortly after 11 p. m. on the same night two officers attached to Colonel Toro left the Palace and announced that he had resigned. The news of the resignation was immediately communicated to the press and the local radio station and shortly after the announcement was made, several groups of people gathered in the center of the city, but no disorder of any nature has been reported either then or since then.

The Legation has been informed that the troops stationed at Viacha, said to have been the most loyal to Colonel Toro during recent months, contemplated entering the city to assist him, but he requested them not to do so. Otherwise there has been no suggestion of trouble, no demonstrations, or any evidence that the majority of the people are either more or less pleased than they were before. The working classes have apparently been apathetic to the entire matter except for a few manifestos of the usual type, denouncing the capitalists.

There is enclosed a copy of the Spanish text and an English translation of the resignation of Colonel Toro, as well as a copy and translation of the resignation of all the members of the Junta then in La Paz.¹⁰ Immediately after the resignation telegrams were sent to all the outlying garrisons announcing the resignation of Colonel Toro and recommending that each garrison name the officer who should become head of the government. In the same telegram it was indi-

¹⁰ Not printed.

cated that the garrison in La Paz had unanimously pronounced itself in favor of Colonel Busch.

It will be noted that the resignation is directed to the army and that Colonel Toro stated that his continuance in office would depend upon the opinion expressed by the army. The resignation also states that as General Peñaranda did not accept the Provisional Presidency, Colonel Toro had turned it over to Colonel Busch.

Although a cabinet was announced on July 14th (See Despatch No. 278, dated July 16, 1937¹¹), and took office at 3 p. m. on the same day, Colonel Busch did not formally assume office as President of the Military Junta of Government until July 15th. The formal announcement of his assumption of office was made through a decree signed by the new President. A copy and translation of this decree is enclosed.¹¹ It states that as the garrisons in the interior and on the frontiers of the country had expressed their approval of Colonel Busch in the office of President of the Junta, he had assumed that office.

Respectfully yours,

JOHN J. MUCCIO

824.01/57a : Telegram

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

WASHINGTON, July 17, 1937—4 p. m.

56. For Braden. Inasmuch as the change of government in Bolivia was effected by a *coup d'état* without any semblance of conformity to the constitution, the Department believes that recognition is necessary. The Busch regime has already given evidence of its desire to honor its international engagements. Upon receipt of information that the Busch regime is maintaining public order and is effectively administering the Government, and after consultation with the other governments represented upon the Chaco Committee, this Government will probably proceed at once to give consideration to according recognition.

HULL

824.00/812 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 17, 1937—4 p. m.

[Received 6 : 12 p. m.]

45. Note today from Acting Minister for Foreign Affairs refers to National Army having assumed executive power in May 1936 and having designated Toro as President of the Junta of Government.

¹¹ Not printed.

Toro having resigned July 13 the same National Army designated Busch Provisional President and later confirmed him as Chief Executive.

Gives names of new Cabinet then continues, "in the absence of the Minister of Foreign Affairs the Chief of the Government has seen fit to designate me temporarily in charge of the Chancellery. As such I express to Your Honor that the Government of Bolivia will continue, as until today, maintaining the most cordial relations with that which you represent." I shall await instructions prior to acknowledging.

MUCCIO

824.00/811 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 17, 1937—5 p. m.

[Received 6 : 23 p. m.]

46. Referring to my telegram Number 44, dated July 16, 5 p. m., La Paz superficially tranquil but undercurrent increasingly tense and disquieting.

Ruthless slayings Thursday evening at La Paz Club have caused deep resentment and disgust at Busch and his young officers being too ready to use triggers.

There have been numerous arrests and deportations including that of Secretary General of Ex-Combatants.

Tense moments yesterday at La Paz Independence Day celebration when university students in presence of Busch repeatedly shouted "army to their quarters, civilians to the Government".

Rumors of lack of army solidarity also causing uneasiness. Feeling is general that situation has not yet settled.

Repeated to Buenos Aires.

MUCCIO

824.00/813 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 18, 1937—noon.

[Received 7 : 05 p. m.]

47. Referring to Department's telegram No. 20, July 16, 7 p. m.

1. Tense situation reported in my telegram 441 [44], July 16, 5 p. m., and 46, July 17, 5 p. m., has eased considerably. La Paz regionalistic and university students opposition to the continuance of military rule appeased by Busch statement to United Press representative published here this morning that army will proceed to constitutionalize

country as soon as present tasks of organization are completed. I personally feel that next few days will prove whether or not Busch can attain stability. Busch has experienced men in his Cabinet but his youthful impulsiveness may prevent him from keeping his head during this critical period.

2. There is no effective opposition to new government. General disgust at military rule not organized.

3. Under instructions from their respective Governments representatives of Ecuador and Peru yesterday acknowledged the note from the Minister of Foreign Affairs quoted in my telegram 45, July 17, 4 p. m. Brazilian will do so tomorrow. Representatives of Chile and Uruguay have had no instructions. Argentina has no diplomatic representative here. Mexican Minister informs me that since change was accomplished by group of 20 officers not representing the country he intends to wait a week or 10 days before reporting his observations. German Chargé d'Affaires will follow our lead.

4. See my telegram 45, July 17, 4 p. m. Position of Bolivian Government that recognition is not necessary undoubtedly inspired by the Associated Press report of the first statement of the Secretary of State.

5. Busch has declared his intention to respect Bolivia's international obligations and legitimate rights of private property. Internal politics necessitated Busch statement regarding the Standard Oil Company¹² following the receipt and circulation of the report from Buenos Aires that the Standard Oil Company had financed his revolution.

Repeated to Buenos Aires.

MUCCIO

824.00/836

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

[WASHINGTON,] July 19, 1937.

The Minister of Bolivia called to see me this morning and read to me the declaration of his Government which he had been instructed to communicate to me. The text of the declaration was identical with that which had been issued by the Bolivian Government to the press, and contained the assurance that Bolivia would scrupulously maintain all of its international obligations and that it desired to continue its friendly relations with the Government of the United States. Further by instruction, the Minister stated that, in the opinion of his Government, no formal act of recognition was required of the new regime. Inasmuch as the government headed by Colonel Toro was a government of the Army and inasmuch as the Army had now

¹² See pp. 275 ff.

merely replaced one officer with another, the regime continued although the individuals in the government were changed.

I requested the Minister to say, in reply, that following the useful and desirable precedent created when the Chaco Peace Conference was constituted, it was the desire of this Government to maintain close contact with the other governments represented on the Chaco Peace Conference, and, for that reason, with regard to the statements now advanced by the Government of Bolivia, we were exchanging views with the governments of the mediatory powers, believing that in that way we could more usefully serve in a friendly manner the best interests of the people of Bolivia and Paraguay. I also asked the Minister to say that this Government would, of course, desire a little time, in accordance with its traditional policy, to ascertain whether the present government enjoyed a substantial measure of popular support and likewise was enabled to carry out the ordinary functions of government. I asked him, in conclusion, to emphasize the desire of this Government always to maintain the most friendly relations with all Bolivian governments, and said that I trusted that conditions in Bolivia would soon crystallize in such a way as to make possible the continuation of formal and official friendly relations. The Minister said that he thoroughly appreciated our position and that he would see that this statement was communicated in the proper manner to his Foreign Office.

The Minister said, of his own accord, that it was obvious that the change of government had not taken place in quite so tranquil a manner nor with such military precision as that indicated by the instruction from his Government. He had received word of the deaths of three civilians, which had occurred upon the occasion of the banquet for General Peñaranda, and apparently also of the fact that there was considerable tension within the Bolivian Army itself. He said, however, that it was a hopeful sign that the three civilian members of the Cabinet were not purely civilians appointed as individuals, but that in each case the new civilian Cabinet members represented very large political groups. He said that Señor Gutierrez was formerly a member of the Liberal Party and represented the Right Wing of the present Liberal Party, whereas Dr. Baldivieso, designated as Minister of Foreign Affairs, represented the Socialists, a younger political element, and Señor Gonsalvez was, of course, the representative of the Saavedra group. Another encouraging sign, the Minister said, was that Colonel Busch had publicly stated that all of the political parties would be offered full opportunity for organization with a view to proceeding to elections at an early date. He said that this, of course, was completely contrary to the tendency of Colonel Toro's government, which had been to indefinitely postpone any popular elections.

I told the Minister that as soon as our exchanges of views with the other mediatory powers had been concluded, I was sure that we would reach a prompt decision, and that I would be happy to ask him to come to see me as soon as this Government's attitude had been determined.

S[UMNER] W[ELLES]

824.00 Revolutions/28

*Memorandum by the Chief of the Division of the American Republics
(Duggan) to the Under Secretary of State (Welles)*

[WASHINGTON,] July 19, 1937.

MR. WELLES: Mr. Huneeus¹³ came in at the request of the Chilean Ambassador, who is out of town. Mr. Huneeus stated that the Ambassador has received a telegram from the Foreign Office regarding the Bolivian revolution and its effect upon the Chaco situation. Mr. Huneeus said that the telegram, after referring to that part of the manifesto of Colonel Busch which referred to the intention of his Government to honor its international engagements, stated that it would be desirable to have this attitude of the Bolivian Government reiterated by the Foreign Office. The Ambassador's instructions point out that the note to the foreign governments requesting recognition did not refer to the intention of Bolivia to respect its international commitments. Therefore, the Chilean Foreign Office directed the Ambassador to inquire whether it would not be a good idea for the several mediatory countries to approach the Bolivian Government to secure a reiteration by the Bolivian Foreign Office of the statement made by Colonel Busch.

I told Mr. Huneeus that of course this Government desired to cooperate with the Chilean Government in every appropriate way, but I pointed out that, according to a telegram received from our Legation in La Paz, Peru has already recognized the Busch regime, and Brazil has the intention of doing so today. Under these circumstances I pointed out that it would not be possible for the mediatory powers to present a united point of view. I then went on to say that the statement of Colonel Busch had seemed to the Department to be clear and explicit, and expressed my own belief that it could be taken as the expression of the opinion of the new regime without any necessity for its reiteration by the Bolivian Foreign Office. The Busch statement reads as follows:

"1. The new Government will continue the traditional policy of peace, giving strict and permanent fulfillment to the international treaties in force."

¹³ Sergio Huneeus, Chilean Counselor of Embassy.

Mr. Huneus stated that he thought the considerations I had expressed would be of interest to the Ambassador, but said that he knew the Ambassador would also appreciate learning your views, which I shall be glad to communicate to Mr. Huneus.

LAURENCE DUGGAN

824.00/60a : Telegram

*The Secretary of State to the Ambassador in Argentina (Weddell)*¹⁴

WASHINGTON, July 19, 1937—7 p. m.

57. Please call on the Foreign Minister at an early moment and inform him that your Government is desirous of consulting with him and learning his views with regard to the desirability of recognizing the new Bolivian Government, in this respect following the desirable precedent created in the case of recognition of the present Government in Paraguay,¹⁵ as well as of the Toro Government in Bolivia.¹⁶ You should inform the Minister that you assume that the diplomatic envoy of his Government in La Paz received a note similar to that received by our Legation, in which the Bolivian Acting Foreign Minister states that "the Government of Bolivia will continue, as until today, maintaining the most cordial relations with that which you represent". You should then state that your Government will be most appreciative of learning his views and intentions with respect to this note.

In the ensuing discussions you may state that it is the opinion of this Government that the statement issued by Colonel Busch at the time he assumed office, which has been reiterated by the Bolivian Minister here, fully covers the Bolivian intention to respect its international obligations, which would cover the Chaco protocols.¹⁷ Please make inquiry, however, as to the Minister's opinion with regard to the stability of the new Government, its composition and authority, and the measure of popular support which it would seem to possess.

A somewhat similar telegram is being sent to the missions at Rio de Janeiro, Montevideo, and Santiago.¹⁸

HULL

¹⁴ The same, *mutatis mutandis*, July 19, 7 p. m., to the Minister in Uruguay as telegram No. 15, and July 19, 8 p. m., to the Chargé in Brazil as telegram No. 46.

¹⁵ See *Foreign Relations*, 1936, vol. v, pp. 858 ff.

¹⁶ See *ibid.*, pp. 220 ff.

¹⁷ The protocols of June 12, 1935, and January 21, 1936, signed at Buenos Aires, provided for the solution of the Chaco conflict between Bolivia and Paraguay. For texts, see telegram No. 71, June 9, 1935, from the Ambassador in Argentina, *Foreign Relations*, 1935, vol. iv, p. 73; and despatch No. 104, January 21, 1936, from the American delegate to the Chaco Peace Conference, *ibid.*, 1936, vol. v, p. 35.

¹⁸ See telegram No. 30, July 19, 7 p. m., to the Ambassador in Chile, *infra*.

824.01/60b : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, July 19, 1937—7 p. m.

30. The Chilean Counsellor of Embassy called at the Department today, acting under instructions from his Government, to discuss the Bolivian change of government and its effect upon the Chaco situation, especially as concerns the desirability of having the several mediatory countries approach the Bolivian Government in order to secure a reiteration by the Bolivian Foreign Office of the statement made by Colonel Busch that it was the intention of his Government to honor its international obligations.

You will please call on the Foreign Minister at an early moment and express to him the great appreciation of your Government for the opportunity to exchange views on this subject, thus following the desirable precedent created in the case of recognition of the present Government in Paraguay, as well as of the Toro Government in Bolivia. You may state that your Government is desirous of consulting with him and will be most appreciative of learning his views and intentions with respect to the note from the Bolivian Acting Foreign Minister and with respect to the desirability of recognizing the new Bolivian Government.

In the ensuing discussions you may state that it is the opinion of this Government that the statement issued by Colonel Busch at the time he assumed office, which has been reiterated by the Bolivian Minister here, fully covers the Bolivian intention to respect its international obligations, which would cover the Chaco protocols. Please make inquiry, however, as to the Minister's opinion with regard to the stability of the new Government, its composition and authority, and the measure of popular support which it would seem to possess.

A somewhat similar instruction is being sent to the missions at Buenos Aires, Rio de Janeiro and Montevideo.¹⁹

HULL

824.00/814 : Telegram

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

BUENOS AIRES, July 19, 1937—9 p. m.

[Received 11:30 p. m.]

104. From Braden. My 99 July 15, 3 p. m. The Brazilian delegate and I had a very satisfactory 4-hour talk today with Bolivian Ministers of Foreign Affairs and of Mines and Petroleum. Baldi-

¹⁹ See telegram No. 57, July 19, 7 p. m., to the Ambassador in Argentina, *supra*.

vieso appears pacifistic and reasonable on the Chaco and should be helpful if as now appears likely he accepts the portfolio offered him.

Standard Oil Company confiscation was discussed at length and both incoming Ministers agreed to the recommendations which I made in a purely personal capacity, viz: (1), that the matter be referred to a commission of reputable citizens in order to at least tide over the present strong public opinion favoring confiscation; (2), to encourage foreign capital investment Bolivia must make some deal with Standard Oil Company perhaps along the lines followed by Chile with the American and Foreign Power Company.

The Brazilian delegate supported my recommendations and deprecated permitting Argentina to build a railroad from Yacuiba to Santa Cruz. With me, he argued in favor of a railroad from Santa Cruz to Puerto Suarez as the more logical economically and preferable from the standpoint of a favorable Chaco settlement of the port question. Your 56, July 17, 4 p. m. Bolivian delegate has presented note to Secretariat pledging faith in Conference compliance international commitments and expecting continuance of negotiations. At session this afternoon I stated the Department's views. Due to Peruvian acknowledgment of Bolivian note simultaneous action by other mediatory nations was not considered desirable. Argentine Minister for Foreign Affairs stated he will telegraph Bolivian Government probably within 24 hours employing word "recognition". Brazilian, Uruguayan and Chilean delegates expect their Governments promptly either to pursue Peruvian [course?] or ours. [Braden.]

WEDDELL

824.00/828

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 285

LA PAZ, July 19, 1937.

[Received July 24.]

SIR: I have the honor to transmit the following brief observations on the causes of the overthrow of the Toro Government and comments on the character of the new President of the Military Junta of Government, Lt. Colonel Germán Busch.

Toro had lost the support of the larger mining interests, which opposed the continuance of the large war-time exchange exactions. The miners also were disgusted with his professions of socialism and the disruptions in labor ranks brought about by the numerous confusing and onerous labor decrees. The mining interests became increasingly critical of what the Toro Government was doing with over three hundred thousand pounds sterling monthly that the Government was taking from them by exchange requisition alone.

Toro had aroused the opposition of all "políticos" through his abolishment of political parties, the arrest or deportation of all civilians who dared criticise him, his strict censorship, and his refusal to return to a constitutional regime.

Toro had also failed to maintain the support of labor. At the beginning of his administration, labor was encouraged by the Government's numerous professions of socialism and the emission of numerous social decrees. Most of these social decrees were so confusing and impracticable that it took labor a long time to realize that in spite of all these decrees wages were not materially increased and were nowhere commensurate with the mounting cost of living.

Toro never did have the respect and admiration of the young Army officers, whose idol was Busch. At first Toro was classed as a sort of go-between of the younger and older militarists, but as he more and more lined up with the oldsters the youngsters accused him of favoring the older officers and civilians, and leaving them without remunerative posts.

The students, in addition to disliking a military rule as such, detested Toro for his part in the 1930 student massacre.²⁰

Toro, therefore, towards the end of his regime, had no organized backing whatsoever.

Germán Busch, son of a German father and a Cruceñan mother, has the single-purpose, Teutonic mentality. He has had the unqualified admiration of the rank and file of the Army and of the younger Army officers because of his unparalleled Chaco war record. Recently, he has also attained the backing of the ex-combatants and of the Federation of University Students, although recent events indicate that the support of the two latter organizations was gained probably more through their desire to eliminate Toro than actually to put Busch at the head of another military Junta. The miners also preferred to take a chance on the uncertainty of a Busch regime than to continue being stifled by Toro.

Busch's sincerity of purpose and his accentuated patriotism . . . cannot be questioned. Having been primarily instrumental in eliminating President Salamanca in November, 1934, and Tejada Sorzano in May, 1936, he, in the name of the Army, was responsible for putting Toro into office. Toro in office, having failed the Army and the Nation, it was a natural reaction of Busch that he should also be eliminated. Fired by his own ambition, and that of his enthusiastic supporters, it was a foregone conclusion that he would replace Toro.

As just stated, Busch's sincerity and patriotism is evident. Should

²⁰ See *Foreign Relations*, 1930, vol. I, pp. 415 ff.

he succeed in carrying out his declared intention of giving the country a constitutional government so soon as practicable, he would be an unqualified patriot. But his brash courage, scepticism of everyone about him and political ineptitude, may thwart him; particularly in view of the confused political maelstrom surrounding him and the difficulty of satisfying the appetites of his youthful cohorts.

Respectfully yours,

JOHN J. MUCCIO

824.00/835

*Memorandum by the Chief of the Division of the American Republics
(Duggan)*

[WASHINGTON,] July 20, 1937.

Mr. Huneeus of the Chilean Embassy telephoned to say that the Ambassador, who is out of town, just received an instruction from the Foreign Office stating that the Chilean representative at the Chaco Peace Conference has been instructed to work in "full agreement" with the representative of the United States.

LAURENCE DUGGAN

824.00/815 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 20, 1937—3 p. m.

[Received 4:41 p. m.]

48. Referring to my telegram No. 47, July 18, noon, Uruguayan Minister and Argentine Consul have received no instructions. Chilean Chargé d'Affaires has instructions authorizing him to acknowledge note following consultation with mediatory representatives. Chilean Chargé d'Affaires informed me that he has instructions to insist that a declaration to respect existing treaties be inserted in the note from the Minister of Foreign Affairs.

Brazilian and Peruvian Legations received instructions to acknowledge note before they had reported receipt thereof. Bolivian representatives in Lima and Rio de Janeiro had apparently obtained prior approval of Brazil and Peru to Bolivian position that question of recognition did not arise.

Situation has settled considerably and there is every indication that Busch will succeed in consolidating his position.

Repeated to Buenos Aires.

MUCCIO

S24.01/62 : Telegram

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

RIO DE JANEIRO, July 20, 1937—4 p. m.

[Received 5:45 p. m.]

80. Department's telegram No. 46, July 19, 8 p. m.²¹ In a conversation I had this afternoon with the Minister of Foreign Affairs the latter stated that he did not consider it advisable or necessary to extend formal recognition to the new Bolivian Government, but he considered it preferable to maintain normal diplomatic relations with that Government on the theory that it is merely a prolongation of the previous regime. He added that his views are shared by the Governments of Chile and Peru, as well as by the representatives of the Chaco Conference at Buenos Aires. However, he is informed that the Argentine Government is considering extending formal recognition to the new Bolivian Government within a few days. He explained that he had received formal assurances from the Bolivian Minister here similar to those received by the Department to the effect that the new Bolivian Government intends to respect its international obligations. The Minister for Foreign Affairs stated that his information regarding the stability and authority and popular support of the new Bolivian Government is somewhat conflicting and he is not prepared to state at present that he considers that Government to possess the unanimous support of the Bolivian Army. I inquired whether he believed that the Bolivian Government itself would be satisfied with maintaining relations with other governments without a formal act of recognition and he answered that he had received assurances through the Bolivian Minister that that Government would be entirely satisfied with this arrangement. He explained, furthermore, that he considers the situation to be somewhat different from the cases of recognition of the present Government in Paraguay and the Toro Government in Bolivia since both of those Governments were military governments resulting directly from the overthrow through revolution of civilian governments; that he considers that the present Government of Bolivia is on the other hand merely an ascension to power of a military officer succeeding another military officer and this point, in addition to his lack of certainty regarding the stability of the present Government, strengthens his opinion regarding the desirability merely of maintaining relations with the new Government in Bolivia without any formal act of recognition.

SCOTTEN

²¹ See footnote 14, p. 261.

824.01/61 : Telegram

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

BUENOS AIRES, July 20, 1937—6 p. m.

[Received 8:36 p. m.]

105. I today communicated to the Minister for Foreign Affairs the pertinent portions of the Department's telegram No. 57 of July 19, 7 p. m.

Referring to the precedent created in the case of the recognition of the present Government in Paraguay, he said that this in a sense tended to force the hand of interested governments in considering recognition of the new Bolivian Government. However, in view of all the circumstances, recognition of the latter by his Government would follow in the next 3 or 4 days; he added that recognition should not be accorded automatically as the action of Peru would seem to imply, as the Bolivian Army is not the country.

As Argentina has no diplomatic representative at present in La Paz, no such note as received by us has been sent to his Government but the Bolivian Minister here had written in much broader terms asserting the intention of his Government to observe the Chaco protocols; these latter the Minister for Foreign Affairs emphasized as being of primary importance. The Argentine Minister considers the pledges made by that [*the?*] Bolivian Minister on behalf of his Government as adequate in the matter of protocols. He said he would send me tomorrow the text of the note which he was addressing to the Bolivian Minister here.

The Minister for Foreign Affairs is of the opinion that the new Government is reasonably good and stable and therefore thinks it will survive. He considers the new Foreign Minister a fairly good choice and thinks that the new Government may hope for a reasonable measure of popular support.

WEDDELL

824.01/64 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, July 20, 1937—6 p. m.

[Received 10:40 p. m.]

39. Department's 30, July 19, 7 p. m. In the absence of the Foreign Minister I communicated this afternoon to the Under Secretary the gist of the instructions.

With regard to action by the several mandatory countries Señor Vergara²² said that the receipt yesterday of information from the Chaco Peace Conference at Buenos Aires that the various members were in accord, the Chilean Government instructed its representative at La Paz to hand to the Acting Bolivian Foreign Minister this evening, the 20th instant, a note in the following general sense: "Chile will be glad to continue its official relations with the existing Government as had been maintained with that of Señor Toro, in consideration of the statement by Colonel Busch of the intention of his Government to honor its international obligations". Vergara continued that Chile does not consider any other formality of recognition necessary but that it is of the opinion that the withholding of this step might weaken the prestige of Colonel Busch and so precipitate a more regrettable situation than now exists.

Brazil and Peru have already presented notes to the Bolivian Government on the above lines.

Respecting the stability of the present Bolivian Government, Chile regards its future as uncertain. Without question Colonel Busch lacks the support of the army as a whole. Lacking also the character and stability of Señor Toro he is at the same time a courageous and energetic person but capable possibly of rashness in order to overcome opposition. The political situation throughout the country is most involved and the people generally are restless. Señor Vergara sees in this situation a possible resumption of hostilities in the Chaco should dissensions in the army impel the Government to such a measure in order to maintain its predominance. It appears that Colonel Busch has established political relations with former President Saavedra who is now in Chile with the obvious purpose of gaining the support of the latter's partisans.

PHILIP

824.01/63 : Telegram

The Minister in Uruguay (Lay) to the Secretary of State

MONTEVIDEO, July 20, 1937—9 p. m.

[Received 10:43 p. m.]

26. Department's 15, July 19, 7 p. m.²³ Reed²⁴ saw Foreign Minister who stated that he is not aware of the receipt by his Legation at La Paz of officer referred to, that as to recognition of new Government he instructed Uruguayan Legation to associate itself with other powers signatory to Chaco agreements and that he has no information

²² Germán Vergara Donoso, Chilean Under Secretary for Foreign Affairs.

²³ See footnote 14, p. 261.

²⁴ Leslie E. Reed, First Secretary of Legation.

regarding stability, composition, authority or popular support of the new Government.

LAY

824.00/816 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 21, 1937—10 a. m.

[Received 1:10 p. m.]

49. Referring to telegram No. 48, July 20, 3 p. m., Chilean Chargé d'Affaires following conversation with Acting Minister of Foreign Affairs yesterday, 6 p. m., replied to note inserting statement in his acknowledgment to the effect that since the President of the Junta of Government had declared that it would respect existing treaties Chile would be glad to continue cordial relations.

Uruguayan Minister has also been authorized to acknowledge the receipt of the note and intends doing so today.

Repeated to Buenos Aires.

MUCCIO

824.01/69

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

[WASHINGTON,] July 22, 1936 [1937].

The Bolivian Minister came in and inquired what information the Department had with regard to Bolivia and the recognition of the new regime. I informed the Minister of the consultation of this Government through its diplomatic envoys with the Governments of Argentina, Brazil, Chile and Uruguay. I also informed the Minister of the action which had been taken with respect to recognition by these various governments.

The Minister informed me that he had received a telegram from his Government dated La Paz, July 20, 8 p. m., stating that the following Governments had acknowledged the circular note:

The Vatican
Peru
Brazil
Chile
Ecuador
Italy.

LAURENCE DUGGAN

824.01/58 : Telegram

The Secretary of State to the Chargé in Bolivia (Muccio)

WASHINGTON, July 22, 1937—2 p. m.

21. Your 45 July 17, 4 p. m. You may deliver the following note in reply to the note received from the Acting Minister for Foreign Affairs:

"I have the honor to acknowledge the receipt of Your Excellency's note of (insert date) in which you state that Colonel Toro, having resigned as President of the Junta of Government on July 13, 1937, the National Army designated Colonel Busch Provisional President, and later confirmed him as Chief Executive, and further state that the Government of Bolivia will continue, as until today, maintaining the most cordial relations with my Government.

"In view of the statements contained in your note under reference and of the declarations made by the Chief Executive that his Government intends to respect Bolivia's international obligations and the legitimate rights of private property, my Government has instructed me to state that it will be pleased to maintain with the Government of Bolivia the cordial relations that have existed between our two countries."

HULL

824.01/67 : Telegram

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

BUENOS AIRES, July 22, 1937—3 p. m.

[Received 4:30 p. m.]

106. From Braden. My 104, July 19, 9 p. m. Argentine Foreign Minister today gave me copy of note which Argentine Consul in La Paz will deliver probably tomorrow acknowledging Bolivian Government's note, referring to their delegate's note to the Conference and to declarations by Busch. Argentina will continue same cordial relations as before since the aforesaid declarations and other information "has convinced the Argentine Government that the Bolivian Government has all of the necessary conditions required by international doctrine which my Government has always faithfully observed in analogous cases".

N. B. Word "recognition" not used in note. Repeated to La Paz. [Braden.]

WEDDELL

824.01/68 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, July 22, 1937—6 p. m.

[Received July 22—4:35 p. m.]

50. Department's telegram No. 21, July 22, 2 p. m. Note just delivered.

MUCCIO

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT
BETWEEN THE UNITED STATES AND BOLIVIA

611.2431/14

The Secretary of State to the Minister in Bolivia (Norweb)

No. 37

WASHINGTON, February 26, 1937.

SIR: The statement has been noted in your despatch No. 40, September 25, 1936,²⁵ that the Foreign Minister of Bolivia has authorized you to say to the United States Government that if this Government were willing, he desires to suggest that the two Governments undertake without delay to explore the possibilities of the trade between Bolivia and the United States, and particularly the possibility of marketing Bolivian tin directly in the United States, so as to determine if sufficient mutual interest exists to justify the negotiation of a trade agreement between the two countries. It has been noted also that it is your understanding that the Bolivian Minister in Washington is being instructed to confirm the conversation between the Foreign Minister and yourself and that the Foreign Minister has stated that if you could obtain an indication that his suggestion for exploratory conversations would be well received in Washington, he was prepared, on being informed of this indication, to reduce his ideas to a formal written proposal.

You are authorized to inform the Minister that the Department will give the most sympathetic consideration to any proposals he may wish to put forward as regards a possible trade agreement, making clear that these, of course, would have to be given consideration in the regular way.

For your information it should be stated that the Department feels that the negotiation of a trade agreement with Bolivia would be a matter of considerable difficulty. As you know, it is necessary to confine concessions made by the United States in trade agreements to products of which the other countries concerned are the chief or reasonably important sources of imports into the United States. A preliminary survey made in the Department on this basis reveals that there are no products on which reductions in duty could be granted to Bolivia, and very few products with respect to which the existing treatment could be bound. It would seem that on only one product could a duty binding be given: Brazil nuts, the former duty on which was reduced by 50 percent in connection with the agreement with Brazil. Free list bindings might possibly be granted on antimony ore (although Mexico supplies approximately ten times more than does Bolivia which is a second or third supplier) and on tin ore.

²⁵ *Foreign Relations*, 1936, vol. v, p. 237.

You are further authorized to say that this Government is always prepared to consider any arrangement compatible with its general commercial policy that might be worked out in regard to tin. However, as you know, despite continued consideration of this matter, nothing concrete has ever been formulated that appears to be of promising character. At the present time, Bolivia presumably is able to sell all the tin it is producing in the world market and securing the world price therefor.

In the event that the Bolivian Minister in Washington calls upon the Department with reference to these matters, he will be informed of the Department's position as outlined above.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

824.6354/132 : Telegram

The Minister in Bolivia (Norweb) to the Secretary of State

LA PAZ, March 7, 1937—noon.

[Received 5 p. m.]

9. The Bolivian Minister for Foreign Affairs has been instructed to discuss the possibility of a tin arrangement and, should his overtures be well-received, to suggest a commission to formulate a plan. The instructions apparently thus far do not contemplate a general trade agreement. I told the Foreign Minister that the Department would consider attentively any suggestion from the Bolivian Government, but that much preliminary work would seem necessary before a commission would be justified. The Foreign Minister said that the instructions covered both these points.

NORWEB

611.2431/17

The Minister in Bolivia (Norweb) to the Secretary of State

No. 162

LA PAZ, March 11, 1937.

[Received March 19.]

SIR: With reference to airmail instruction No. 37, of February 26, 1937, and previous correspondence regarding the possibilities of a trade agreement between Bolivia and the United States, I have the honor to report that in an interview at the Foreign Office yesterday the Foreign Minister agreed that it might be difficult to find a basis for a satisfactory trade agreement, and it was that thought which had prompted him to suggest the formation of a commission of investigation.

I took the occasion to inquire if he had any specific proposals in mind as it would appear, in view of the difficulties we both appreciated, that the informal exploratory discussions in Washington would have greater chance of success if both parties had some definite goal in mind. To these observations Dr. Finot remarked that nevertheless his government is of the opinion that by patient investigation some basis for negotiation might be discovered mutually beneficial to trade between the two countries.

This inconclusive conversation is but another indication, in my opinion, that the Government of Bolivia has no definite offer or project in view, but, not wishing to overlook any opportunity of improving its trade relations, is hopeful that preliminary conversations in Washington may afford a clue that could be developed into something profitable.

In connection with the appointment of a commission reference is made to recent despatches from the Legation regarding the establishment of three commissions to study trade relations and related matters with the governments of the Argentine, Brazil and Chile. In view of the marked rivalry between these three countries for trade predominance in Bolivia it might perhaps be injudicious at this time for the United States to appear to be injecting itself into this triangular competition. It is apparent that while the conclusions of these three commissions may be some time in being formulated, the Bolivian Foreign Office is not equipped with sufficient personnel to give attentive considerations to so many proposals at one time.

On March 9, 1937, the London price of tin rose to £301/0/0 per ton, the highest price for many years. The average price during January, 1937, had been £228/3/11, during February £233/17/1 and on the first of March had been £244/10/0. There was thus an increase of £57/10/0 during the first few days of March. The production in Bolivia remains low as only 1,755,426 fine kilos (1,728 English tons) were produced during the month of February, but this high price should offer some inducement for increased production in spite of the fact that the Government continues to require the delivery by the miners of a large percentage of their foreign exchange. If sustained for any period the present high price will undoubtedly affect Bolivia's desire for a tin agreement with the United States since it can find a ready market in England for its entire present production and under the quota agreement can market at least twice the present production if it is mined. The only present difficulty is that the Government must convince the miners that it would be to their advantage to increase the production by granting some decrease in the amount of foreign exchange which must be turned over to the Government.

Thus, while the desire for a tin agreement in Bolivia is lessened, the interest of the United States as a consuming country is increased since through the manipulations of the Tin Pool the price may be maintained at this high level for some time to the detriment of the American consumers.

I should greatly appreciate being kept currently informed of any conversations between the Department and the Bolivian Minister. I feel that I should add that having achieved the principal purpose of the Department's instruction, namely of having the discussions initiated in Washington rather than in La Paz, there is little further contribution the Legation can make at this juncture except to assist in the general survey of Bolivian economic and financial conditions which is about to be undertaken by Commercial Attaché Merwin L. Bohan, at the suggestion of this mission.

Respectfully yours,

R. HENRY NORWEB

611.2431/19

The Minister in Bolivia (Norweb) to the Secretary of State

No. 248

LA PAZ, June 11, 1937.

[Received June 18.]

SIR: I have the honor to refer to my despatch No. 245, dated June 10, 1937,²⁶ and to enclose herewith a memorandum entitled "Reciprocal Trade Agreement",²⁶ prepared by Commercial Attaché Merwin L. Bohan.

Mr. Bohan's final conclusion is that a reciprocal trade agreement would not result in materially increasing imports from the United States. He points out that Bolivia will never offer a large market for consumers' goods of American manufacture since the import purchasing power of the Bolivian people is exceedingly limited. Although American investments in mining are overshadowed by both Bolivian and Chilean interests, the employment of American executives and engineers is so widespread that the natural preference for American mining equipment and supplies is greatly enhanced and the United States already controls a very substantial percentage of this business. Bolivian import duties are not excessive and exchange restrictions have not substantially affected American exports to Bolivia, and neither one of these two factors is of sufficient importance to warrant treaty negotiations.

Mr. Bohan then concludes that the keen interest of the Bolivian Government in a reciprocal trade agreement arises primarily from

²⁶ Not printed.

the desire that a smelting industry be established in the United States. Under present conditions practically all Bolivian tin concentrates move to England for smelting, and the man who controls fifty per cent of the Bolivian production, Señor Patiño, likewise has heavy interests in the English smelters. On this account, the Bolivian Government is checkmated in dealing with the mining industry and its powers would be substantially increased if the country had more than one outlet for its ores, especially if a smelting industry in the United States were controlled by interests other than those of Simon I. Patiño. He believes that the present balance between the Bolivian Government and the tin industry is much to be preferred to any uncontrolled preponderance on the part of the Government . . .

Respectfully yours,

R. HENRY NORWEB

INFORMAL ASSISTANCE TO THE STANDARD OIL COMPANY OF NEW JERSEY IN CONNECTION WITH THE CONFISCATION OF ITS PROPERTIES IN BOLIVIA

824.6363/120

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 117

LA PAZ, January 14, 1937.

[Received January 27.]

SIR: I have the honor to enclose a copy and a translation of the decree of December 21, 1936,²⁷ creating the "Bolivian Government Petroleum Deposits" (Yacimientos Petrolíferos Fiscales Bolivianos or Y. P. F. B.), a government organization for the exploitation and development of the Bolivian petroleum fields.

This office has been informed that this organization has been established not only to safeguard the interests of the State in the matter of petroleum production, but is contemplating actively entering the production field. To this end concessions are to be granted for large territories which were formerly surveyed by the Standard Oil Company but which have been relinquished by that company evidently as unproductive. The new organization is apparently of the belief that although these concessions have been returned to the State, they may be productive and worth developing, and that the Standard Oil Company let their concessions lapse simply as a blind.

While it is apparent from Article 6 of the enclosed decree that the organization and statutes of the new company are not yet completed, it is understood that as a result of Foreign Minister Finot's visit to Buenos Aires and the resultant convention with the Argentine

²⁷ Not printed.

(See Legation's despatch No. 112, dated January 11, 1937²⁸), the Argentine Government through the "Yacimientos Petrolíferos Argentinos" has evinced a more active interest in the Bolivian oil fields and is alleged to have gone so far as to promise that if the Argentine obtains advantages in this matter and the Bolivian Government expropriates the fields held by the Standard Oil Company and allows their purchase by the "Yacimientos Petrolíferos Argentinos", the Argentine will guarantee that Paraguay will not again go to war with Bolivia.

With the economic rivalry of Brazil, Chile and the Argentine, and to a lesser extent Peru, Bolivia is in a position of some advantage and can play off one force against the others. The Brazilian Government has shown considerable interest in obtaining a steady and large supply of Bolivian petroleum sufficient to supply the larger portion of the needs of the country, while the Argentine Government, which is negotiating for the purchase of the Standard Oil properties in that country, is naturally interested in acquiring the Bolivian fields in order that it may have a production monopoly in the southern portion of this continent.

It is understood that the Argentine Government has already discussed this subject with the Bolivian Government and that a confidential agent of President Toro will shortly go to Buenos Aires to discuss with the "Yacimientos Petrolíferos Argentinos" the matter of raising capital. Economic penetration of the Argentine through British capital in the railways and oil fields of Bolivia would be an important step in counter-balancing the American influence in Bolivia.

The actual question regarding the production capacity of the Bolivian fields is of course important not only to the Argentine but to almost the same extent to Brazil. While the Brazilian Minister was fairly recently taken on a tour of the oil fields by the Minister of National Defense and the Chief of the General Staff, it is doubtful whether he has any very definite idea regarding production figures or potential production. The Bolivian Government has found it necessary to find some other means of raising capital in the form of foreign exchange since tin production has declined and in spite of government encouragement, has not increased to any great degree. Their alleged riches in petroleum are now receiving considerable attention because of this factor and the bait is being extended to any country which does not remember or prefers not to remember the difficulties of the Standard Oil Company during the recent war.

Respectfully yours,

JOHN J. MUCCIO

²⁸ Not printed.

824.6363 ST 2/81

*Executive Resolution of March 13, 1937, Cancelling Concession of the Standard Oil Company of Bolivia and Confiscating Its Property*²⁹

[Translation]

La Paz, March 13, 1937.—Whereas: The documents of the case against the Standard Oil Co. plainly prove the production of petroleum from the Bermejo wells in 1925 and 1926 and its exportation from the territory of the Republic;

That in the year 1928 the company mentioned on being required to pay the petroleum exploitation taxes showed by various documents not to have produced petroleum and furthermore, of not being in a position of producing it, since they had evidence to the contrary since the exportation of this product had been authorized from the encampment Bermejo in Bolivia to the Agua Blanca in the Argentina;

That (it) ratified its denial of having produced petroleum with the act of not making the required quarterly liquidations in virtue of the contract, manifesting, rather, that there had been no production and therefore there had been no reason (*lugar*) for presenting any liquidation.

That because of these false statements it avoided the payment of taxes and the delivery of the corresponding royalty to the State defrauding the Government's interests in a manifest form;

That the contract signed with this company on July 27, 1922 is but a clarification of the former contract on the same matter signed in 1920 with Richmond Levering and Company since in 1922 it was not possible legally to sign a contract in express contraposition to the Organic Petroleum Law of 1921 and that in view of that the Standard Oil Company explained that it was not a matter of a new one but of substitution of that of the Richmond Levering Company which was (issued) before the law, without rescinding it or leaving it without effect.

That the eighteenth clause of the contract of Richmond Levering and Company stipulated that the Government may declare its abrogation or administrative annulment for defrauding the government interests; abrogation which for the capitalists means the loss of all rights to the property which they may have had in the country, which pass to the exclusive property of the State;

That until the form in which the State will administer the oil fields and refineries of the Standard Oil Company with all their annexes, fixtures, machinery etc. is defined, they can be used by the Y. P. F. B.;

²⁹ Transmitted to the Department by the Minister in Bolivia in his despatch No. 173, March 18; received March 25. For Spanish text of this decree, see Bolivia, *Anuario Administrativo de 1937* (La Paz), vol. I, p. 519.

It is Resolved [to]

Declare the annulment of all the properties of the Standard Oil Company within the territory of the Republic for proved defrauding of the government interests.

All the property of the company mentioned which is in Bolivian territory at the time of dictating the present Resolution pass[es] to the property of the State.

Until the Government deems it convenient there shall remain in charge of the administration and management of all the property of the Company which in virtue of this annulment passes to the power of the Government official organization "Bolivian Government Petroleum Deposits."

824.6363 ST 2/70 : Telegram

The Minister in Bolivia (Norweb) to the Secretary of State

LA PAZ, March 15, 1937—9 p. m.

[Received 11:58 p. m.]

11. Early this evening the offices of the Standard Oil Company were closed and sealed by authority of a resolution of March 13th signed by the entire Junta of Government. I have not yet seen the resolution which is being cabled to New York office but have been informed by the local manager that the order confiscates the entire property of the company and transfers it to the state. The action is based on a claim that the company illegally exported a quantity of petroleum to the Argentine Republic during 1926-1927. The company contends this claim is outlawed by statute. Company's contract contains Calvo clause³⁰ and lawyers have advised that its only recourse is to bring an action in the Supreme Court. Thus far the operations of the subsidiary Southern Radio Corporation have not directly been affected.

Although I have seen the Foreign Minister frequently he has given no intimation that the Government contemplated this action. I intend to call on him tomorrow to endeavor to effect some friendly initial arrangement so that company's urgent business can be transacted.

Background fully covered in recent despatches and action probably related to the Government's petroleum negotiations with Argentine and Brazil.

Has Department any instructions.

NORWEB

³⁰ Green H. Hackworth, *Digest of International Law*, vol. v, p. 635.

824.6363 ST 2/71 : Telegram

The Minister in Bolivia (Norweb) to the Secretary of State

LA PAZ, March 16, 1937—7 p. m.

[Received 8:55 p. m.]

12. Referring to my telegram 11, March 15, 9 p. m. I spoke informally with the Foreign Minister this morning and was informed that the Government's action against the Standard Oil Company is based on findings of the Ministry of Mines and Petroleum that a fraud has been committed in illegally exporting oil to the Argentine Republic in 1925-1926; that, however, the most important [factor in?] the Bolivian Government claim is the evasion of taxes amounting to 1,400,000 bolivianos during the early period of exploitation; and that therefore all the properties of the company pass to the state under the fraud provision (article 18) of the Richmond Levering concession of 1920 taken over by the Standard Oil Company. The question of the evasion of taxes has long been before the Supreme Court but by its action the Government has taken the matter into its own hands. The Foreign Minister added that the company would be operated by the official government petroleum agency and on inquiring why it had been [led] to seize the company's entire property and business to establish its claim he stated that legally the Government has this power and that, in addition to the legal grounds, there is a moral justification arising from the company's non-cooperative attitude during the Chaco war adding that it was "a natural aspiration of a country to control its petroleum resources."

Apparently concerned that the action of the Government might properly be regarded as an attack on foreign capital, the Foreign Minister stated that he had cabled the Bolivian Minister to try to explain to the Department that it is only an internal matter affecting a Bolivian company.

It was plain from his remarks and attitude that the Government is glad to have a pretext to seize the property of the company without necessity of indemnification and irrespective of the relative unimportance of the claim, regards its action as legally justified and well deserved. Before I left he promised me to ask that the company be allowed access to its office and files in order to prepare its defense and I have just been informed that this has been granted.

The company's lawyers advise delay in appealing to the Supreme Court and have petitioned the Junta to reconsider its resolution hopeful that some compromise may be possible.

NORWEB

824.6363 ST 2/82

The Minister in Bolivia (Norweb) to the Secretary of State

No. 174

LA PAZ, March 19, 1937.

[Received March 26.]

SIR: I have the honor to report that from certain statements made to me, and from other data coming to the attention of the Legation, it would appear that Minister of Foreign Affairs Finot's foreign policy, particularly as affecting the Standard Oil Company of Bolivia, is motivated by, or based upon, the following premises:

Mr. Finot appears to be confident that no effective support for Bolivia's position in the Chaco Peace Conference³¹ can be expected from the United States. He feels that it is evident from the nature of the participation of the United States in the steps taken to avert war in the Chaco and from its attitude during and following that war, the United States prefers not to take issue with the Argentine. While Bolivia has received considerable moral support and sympathy from Brazil, Chile and Peru, no one of these three powers, nor the three jointly, could possibly overcome Argentine influence and thereby offer anything concrete to Bolivia looking towards the settlement of the Chaco question. The only way the present Government can hope to obtain a sufficiently satisfactory settlement of the Chaco controversy that may save its face with the people of Bolivia is, therefore, through a *rapprochement* with the Argentine. It would appear that Mr. Finot's contention is that the most plausible manner of attaining such a *rapprochement* would be for Bolivia to accede to the Argentine's eagerness for access to the Bolivian oil resources. It will be recalled that when the Argentine Carillo mission was in La Paz one of the inducements offered in exchange for Argentine possession of the oil resources was the support of the Argentine Government in readily reaching a satisfactory solution of the long standing critical problem of the Chaco. For its support, I have been informed, the Argentine Government insisted on an agreement direct with the Bolivian Government for full possession of the Bolivian oil resources, the Argentine "Yacimientos Petrolíferos Argentinos" offering the Bolivian Government fourteen percent of the returns therefrom in lieu of the eleven percent under the present Bolivian-Standard Oil contract. Should Bolivia not agree to an Argentine oil concession, Argentina has intimated that it will not be favorably disposed, and Paraguay may eventually be allowed to obtain control of the fields. On the other hand, if Bolivia is willing to grant Argentina a foothold it will see to it that Bolivia does not lose the Chaco or at least any

³¹ See pp. 4 ff.

large part of it. In other words, in making the Standard Oil concessions available to Argentina, such action would guarantee Bolivia a powerful neighbor, who would never again let Paraguay menace its territory. My informant brought to my attention that in discussing this matter with the Minister of Foreign Affairs he pointed out to Mr. Finot that by such an arrangement what the Argentine had failed to obtain through the efforts of the Paraguayan Army during the Chaco War, the Argentine would be obtaining diplomatically.

If such is Señor Finot's present reasoning, it seems safe to conclude that some very powerful influence must have forced him to put aside his personal dislike and distrust of the Argentine and Dr. Saavedra Lamas.³² Whatever has happened, present policies are obviously opportunistic, for Bolivia cannot, in the long run, hope to benefit from a program which aims at a special association with one of its neighbors to the disregard of the others, especially when that one country is Argentina.

Respectfully yours,

R. HENRY NORWEB

824.6363 ST 2/90 : Telegram

The Minister in Bolivia (Norweb) to the Secretary of State

LA PAZ, April 1, 1937—6 p. m.

[Received 8:22 p. m.]

17. The Foreign Office informs me that the President is disposed to consider a moderate and equitable settlement with the Standard Oil Company provided the company recognizes the accusations against it.

I made no comment since the decision rests with the company which would have to acknowledge its guilt prior even to discussing a settlement.

In making this suggestion the Government may be motivated by a desire to temporize in anticipation of official representations.

NORWEB

824.6363 ST 2/90 : Telegram

The Secretary of State to the Minister in Bolivia (Norweb)

WASHINGTON, April 26, 1937—8 p. m.

10. Your 17, April 1, 6 p. m. You are instructed to obtain an interview with the Bolivian Minister for Foreign Affairs and to inform

³² Carlos Saavedra Lamas, Argentine Minister for Foreign Affairs, Chairman of the Argentine delegation to the Chaco Peace Conference, and President of the Conference.

him that, acting under instructions from your government, you take occasion informally to present the views set forth in the succeeding paragraph.

The Government of the United States regrets to see difficulties arise out of varied interpretations of contracts entered into between American-owned companies operating abroad and the governments of foreign countries. Without expressing an opinion as to the liability of the Standard Oil Company of Bolivia to pay the taxes in question, and without conceding that a failure on its part to pay such taxes as may have been due justified cancellation of the concession, the Government of the United States believes that a scrupulous regard for contractual engagements by all parties concerned therewith is essential for harmonious and mutually advantageous commercial relations. This Government expresses its earnest hope that the present difficulties between the Bolivian Government and the Standard Oil Company of Bolivia will be resolved in a manner equitable to all concerned, through friendly discussions carried on in an atmosphere conducive to a satisfactory adjustment.

For your information, Assistant Secretary Welles has discussed this situation twice with the Bolivian Minister here along the general lines set forth in the preceding paragraph.

Report briefly by telegram upon the results of your interview.

HULL

824.6363 ST 2/126

The Minister in Bolivia (Norweb) to the Secretary of State

[Extracts]

No. 214

LA PAZ, April 27, 1937.

[Received May 7.]

SIR: I have the honor to acknowledge the receipt of the Department's telegraphic instruction No. 10, dated April 26, 1937, and to report that the views set forth therein were presented orally to the Minister of Foreign Affairs at 5:00 p. m. today. He was also permitted to read a paraphrase of the pertinent paragraph of the telegram.

Minister Finot remarked that the least any government could do under the circumstances would be to hope for an equitable settlement. . . .

The Minister of Foreign Affairs informed me that there are no discussions pending between the Government and the Company, but that negotiations will undoubtedly be initiated by Dr. Carlos Calvo,

attorney for the Company, upon his arrival in La Paz, scheduled for early in May.

Minister Finot, after reading the pertinent part of the Department's instruction, requested a copy thereof so that he might have a record of the definite terms used by the Department. I have not complied with the Minister's request, nor shall I do so, unless the Department telegraphically instructs me to do otherwise. I personally feel that this recognition of the controversy is timely and proper. It was not wholly unexpected in view of Guachalla's³⁴ reports having prepared Finot for some notice on our part. As a first step the oral presentation of the Department's views served a useful purpose.

It appears to me desirable to keep our part informal at this juncture, which was evidently the Department's intention, at least until negotiations between the Bolivian Government and the Company are more developed. As matters now stand, the United States has given notice of its interest. That should suffice for the present, especially since Minister Finot's attitude indicates that he is aware of the disadvantages of allowing the Bolivian Government's action to appear too violent.

Respectfully yours,

R. HENRY NORWEB

824.6363 ST 2/119 : Telegram

The Minister in Bolivia (Norweb) to the Secretary of State

LA PAZ, May 4, 1937—4 p. m.

[Received 5:30 p. m.]

26. Referring to page 10 of my despatch No. 173, dated March 18,³⁵ temporary Government administration of Standard Oil Company made permanent by a decree dated April 30 published today. Definitely transferring all "properties, shares and rights" to the YPFB.

This action, taken 3 days after conveying to the Foreign Minister the views expressed in the Department's telegram No. 10,³⁶ appears to deny that the controversy is a question of conflicting interpretations of contracts. The transfer is based on Bolivian concept that Government has administrative right to unilateral action and to this extent limits possibility of a friendly settlement. It would also indicate that Finot's professed desire for an equitable adjustment is looking to palliate Government's actions in view of foreign criticism.

NORWEB

³⁴ Fernando Guachalla, Bolivian Minister in the United States.

³⁵ Not printed.

³⁶ Dated April 26, 8 p. m., p. 281.

824.6363 ST 2/120 : Telegram

The Minister in Bolivia (Norweb) to the Secretary of State

LA PAZ, May 4, 1937—5 p. m.

[Received 6:27 p. m.]

27. Foreign Minister stated to me this afternoon: "We had to drive the Standard Oil Company out of Bolivia for political reasons. It will never be allowed to return". This confirms last sentence my telegram No. 26.⁸⁷

NORWEB

824.6363 ST 2/126a : Telegram

The Secretary of State to the Minister in Bolivia (Norweb)

WASHINGTON, May 7, 1937—1 p. m.

14. I have been increasingly disturbed by the situation which is developing with regard to the seizure of the Standard Oil properties and in particular by the information you have telegraphed the Department as to the attitude recently displayed by the Bolivian Government and by Dr. Finot himself which would seem to indicate that the Bolivian Government has no present intention of reaching a fair adjudication of the equities involved in this case, whatever these equities may in fact be.

Consequently, I desire to address a personal message to Dr. Finot which I transmit herewith. Please read this message to the Minister for Foreign Affairs, and should he so request, but only in such event, you may leave with him a written copy of this message marked "Personal and confidential: Memorandum of a personal message addressed by the Secretary of State of the United States of America to His Excellency the Minister for Foreign Affairs of the Republic of Bolivia". Please telegraph me such reply or comment as Dr. Finot may make to you upon receipt of this message.

The text of the message you are instructed to deliver is as follows:

"Because of the close and friendly association I have been privileged to have with Dr. Finot, both during the period of his service as Minister of Bolivia in Washington and more recently when he played so distinguished a part in the Conference at Buenos Aires,⁸⁸ and because of the high regard I have come to have for him as one of the outstanding statesmen of this continent, I feel warranted in sending him this personal message. I am sure Dr. Finot will comprehend that this message is not to be construed as an official communication from one government to another, but solely as an expression of my personal concern by reason of the existence of a situation which may prejudice

⁸⁷ *Supra.*⁸⁸ See *Foreign Relations*, 1936, vol. v, pp. 3 ff.

the steady growth of that confidence on the part of all of the peoples of the American republics one towards the other, to the value of which I know Dr. Finot, like myself, attaches the greatest importance.

During these recent years the "good neighbor" policy, as an inter-American policy, has made tremendous strides. It has no more able and consistent advocate than Dr. Finot. It contemplates, of course, a general friendliness, complete faith of governments and peoples in each other, and a wholehearted disposition to cooperate each with the other for the promotion of their mutual interests and mutual welfare. One of its foundations must, of course, at all times be the recognition and the practice of fair dealing and fair play on the part of governments and peoples towards each other. This policy of equity and reasonable and just treatment cannot by its very nature be a one-sided policy. It must in its very essence have a reciprocal character, if the peoples of the New World are to progress steadily towards a higher level of international relations.

The series of acts which have recently been undertaken by the Bolivian Government, involving certain properties of the Standard Oil Company of Bolivia—a company owned by the Standard Oil Company of New Jersey of the United States of America—have created the very widespread impression in the United States and in other parts of this continent that the Government of Bolivia has given no overt indication of any intention on its part to compensate the owners of these properties for their seizure by the Government of Bolivia, nor that the Government of Bolivia has manifested any disposition to arbitrate, or otherwise adjudicate, any rights or equities which may be involved.

It is hardly necessary for me to add that the existence of these conditions are personally very distressing to me because of my confidence that both the Government of Bolivia and Dr. Finot personally are as anxious as we are in Washington to dispel any misunderstandings which today exist which would prejudice in any manner mutual confidence between our two peoples and between our two governments. I expressly refrain from dealing at this time with any questions of fact or law, but I do very earnestly desire to urge upon Dr. Finot the expression of my sincere hope that steps may be taken by the Bolivian Government at an early opportunity to make it clear that that Government has every intention of offering just and equitable compensation for the properties owned by nationals of the United States which may have been seized by the Bolivian authorities, or, failing an agreement between these nationals of the United States and the Government of Bolivia upon the form and amount of such compensation, that it will agree upon some method of adjudication of the rights and equities inherent.

In conclusion, Dr. Finot may be assured that I shall be happy in every appropriate and possible manner to cooperate with him with the hope that through negotiations, conducted in a spirit of friendship and fair dealing, between the Government of Bolivia and these nationals of the United States a fair and equitable settlement may be found."

824.6363 ST 2/135

The Minister in Bolivia (Norweb) to the Secretary of State

No. 221

LA PAZ, May 8, 1937.

[Received May 18.]

SIR: I have the honor to confirm my telegram No. 28, dated May 8, 3 p. m.,³⁹ reporting that the personal message addressed by the Secretary of State to His Excellency the Minister of Foreign Affairs of the Republic of Bolivia had been read to Dr. Finot this morning. The message obviously made a good impression on the Minister of Foreign Affairs and he immediately requested a copy, expressing a wish to make a written personal reply thereto through this Legation. A copy of the written message as delivered to Dr. Finot is enclosed.⁴⁰

That the message made a definite impression on Dr. Finot was obvious from the fact that at the beginning of his conversation his comments were much more guarded and temperate than heretofore. Dr. Finot authorized me to report that he had been designated by President Toro to represent the Junta in discussions with Dr. Carlos Calvo, attorney for the Standard Oil Company of Bolivia, who is scheduled to arrive in La Paz today, and that he is personally disposed to do everything towards seeking a basis for a possible settlement, but that this will be extremely difficult. He continued that the Standard Oil matter had gone too far and that internal political considerations would prevent the Bolivian Government from receding, adding that a plebiscite in the country would well nigh be one hundred per cent for the Government's action.

Dr. Finot embarked upon a long, involved series of comments, the high spots of which are the basis for this report. At the beginning, his statements were cautious, but as he grew expansive it became evident that he was principally interested in justifying the Government's action. His attitude made apparent that he was the member of the Junta who had instigated the Government's action, or at least is the principal supporter thereof.

Dr. Finot, at the outset of his conversation, stated that we could count on his cooperation to try for a settlement. He realized that the interpretation and the attendant publicity given abroad to the Bolivian Government's action might be prejudicial to United States-Bolivian relations and particularly to Bolivia's dire need to attract additional foreign capital; but that Bolivia would simply have to take the consequences of its justifiable action.

Dr. Finot again stressed the importance of the incriminating documents found in the Standard Oil safe in La Paz. He has not yet seen

³⁹ Not printed.

⁴⁰ See *supra*.

these documents, and stated that he would not form a definite decision thereon until he had time to make a detailed personal study thereof; but that if they are as damaging as reported, he considers the possibility of an adjustment remote.

Dr. Finot then brought up the question of the Standard Oil Company's attitude and activities during the Chaco war. The Company's war activities are of course the principal basis of the ill will throughout the country directed against the Standard Oil. He reiterated that the Bolivian Government's action was not only legally and morally justified on account of fraud and the non-cooperative stand taken by the Company during the war, but that it was especially necessary to dispel the impression current throughout the world that the weak and impoverished Bolivia had been merely an instrument of the all-powerful, imperialistic world monster, the Standard Oil Company—that the Chaco war had been fought merely to protect the Standard Oil properties. Finot feels that the Standard Oil should have been driven out of Bolivia then, and stated that he had discussed this with an official of the Department who, at the time, "didn't reply yes, but didn't say no." He added that since the Standard Oil had not been then driven out, the internal political situation makes it essential to eliminate the Standard Oil Company now and that he would be the last person in Bolivia to be willing to see the Standard Oil permitted to re-enter.

Finot then commented that the external political situation also made the Government's action unavoidable. It had been obvious from the beginning of the Chaco controversy that the United States would not take issue thereon with the Argentine. Chile is altogether too weak to stop the Argentine and Brazil is too absorbed with its internal dissensions to thwart Argentine imperialism. The only recourse left to defenseless Bolivia under the circumstances is to placate the Argentine by making available the Bolivian oil resources coveted. He continued that he had discussed this matter of the Argentine dominating the Chaco situation in Washington with Assistant Secretary Welles and later at Buenos Aires had discussed it further with Secretary Hull and Ambassador Braden, but that since the neighboring powers cannot, and the United States will not, do anything, Bolivia simply has to play up to Argentine imperialism in order to obtain an acceptable settlement in the Chaco.

As the conversation progressed, in spite of Finot's repeated assertions that he desired an equitable settlement, it became evident that he was more eager to justify the Bolivian action than to appreciate the stand taken by the United States Government that Bolivia has given no overt intention to provide just and equitable compensation to the owners of these properties nor manifested any disposition to

arbitrate or otherwise adjudicate any rights or equities which may be involved.

Dr. Calvo is scheduled to arrive in La Paz this afternoon, and Mr. Pannill⁴¹ on Monday. The United States having given definite notice to Bolivia of its especial interest in this matter, and the way being left open for friendly mediatory action, I should like to repeat that it would seem wise for the Legation to stand aside at this juncture, reserving any further action until the trend of the discussions indicates whether or not Bolivia, in spite of its present attitude, accedes to a friendly adjustment.

Respectfully yours,

R. HENRY NORWEB

824.6363 ST 2/136

The Minister in Bolivia (Norweb) to the Secretary of State

No. 224

LA PAZ, May 13, 1937.

[Received May 22.]

SIR: I have the honor to refer to my despatch No. 221, dated May 8, 1937, and to report that during my usual call on diplomatic reception day, May 11, 1937, Minister of Foreign Affairs Finot informed me that the reply to the Secretary's personal message would be drafted within a few days.

Dr. Finot also volunteered information of his two talks with Dr. Carlos Calvo. According to Dr. Finot, Dr. Calvo's attitude is that: he is here to hold preliminary conversations on behalf of the Company; has advised the Company against recourse to the Bolivian courts; no appeal for United States Government assistance is contemplated by the Company (Dr. Finot observed to me that such a course is forbidden by the contract, even in case of denial of justice); the two had agreed that it would be better for the negotiations to be carried on in La Paz only, without interference by New York; Dr. Calvo had asked for the Government's terms, but that he had made the observation that discussions could continue only on the basis of a reasonable offer from the Company for a settlement; and that Dr. Calvo had told Finot that he had accepted the task of negotiating an adjustment because, as a Bolivian, he wished to do everything he could to avoid a situation where Bolivia appeared to be closing the door to foreign capital.

Dr. Calvo called yesterday afternoon, and his review of the two conversations with Dr. Finot tallies substantially with the outline given me by Dr. Finot. Dr. Calvo informed me that during his pre-

⁴¹ F. C. Pannill, representative, Standard Oil Company of New Jersey.

liminary conversations he stressed the legal aspects of the case and is confident that he has undermined Dr. Finot's cocksureness of the legality of the Government's action. Dr. Calvo is eminently qualified to discuss the legal aspects of the case as he was the legal adviser who drafted both the Richmond Levering and the Standard Oil contracts. Dr. Calvo added that he had stated to the Minister of Foreign Affairs that a prior admission of guilt on the part of the Company could not be considered.

Dr. Calvo commended the attitude of the Legation in keeping before the Minister of Foreign Affairs the Department's interest in the matter but of making no formal representations. He feels that it is not advisable at this stage of the negotiations to have New York stir up Washington too much. He also urged upon me the desirability of remaining in La Paz during the preliminary negotiations, principally on account of the psychological effect thereof. Dr. Calvo appeared confident that an adjustment would be arrived at without undue delay, the negotiations being facilitated by the Company's having no desire to attempt to re-enter Bolivia and indicated that the Company would be satisfied to receive twenty-five cents on the dollar on its investment in Bolivia.

Mr. F. C. Pannill has not yet arrived in La Paz, but is scheduled here on May 15th.

Respectfully yours,

R. HENRY NORWEB

824.6363 ST 2/134 : Telegram

The Minister in Bolivia (Norweb) to the Secretary of State

LA PAZ, May 16, 1937—4 p. m.

[Received 11:28 p. m.]

30. Referring to Department's telegram No. 14, May 7, 1 p. m., Minister for Foreign Affairs handed me May 15, 4 p. m., personal reply to message of Secretary of State reflecting fully the conciliatory spirit of the original communication. While he is personally convinced of correctness and legality of his Government's acts, Minister for Foreign Affairs assures the Secretary that he will cooperate fully toward whatever adjustment may be feasible which, without entering into the legality of the measures adopted, would demonstrate that in Bolivia foreign capital is guaranteed and protected.

In view of length and general nature of message text ^{41a} being transmitted by tomorrow's air mail.

NORWEB

^{41a} Not printed.

824.6363 ST 2/139

The Minister in Bolivia (Norweb) to the Secretary of State

No. 235

LA PAZ, May 24, 1937.

[Received June 1.]

SIR: I have the honor to refer to my recent despatches regarding the steps being taken to endeavor to recover the properties of the Standard Oil Company seized by the Bolivian Government.

From conversations with Dr. Carlos Calvo I have gathered that while he is preparing an exposition of the legal aspects of the Company's position, he realizes that considerations of legality are of doubtful force. However, both he and Mr. C. J. [F. C.] Pannill consider that an effort should be made in this direction, the latter believing that should it be possible to force some acknowledgment regarding the justification of the Company's claims, he may then be able more successfully to follow the instructions which he has received from New York to request, for tactical reasons, that the Company be allowed to resume operations in Bolivia pending a final adjustment of the matter. Actually, the Company wishes to sell out and has no intention of reopening its business in this country.

Mr. Pannill and Dr. Calvo still maintain the belief that it would be injudicious at this point to appeal to the courts and are prepared to recommend a policy of delay should initial negotiations prove unavailing. If it should be found necessary to adopt this policy they believe that it would be advisable for the Company to send an American representative to Bolivia to look after its interests and to take whatever action might be necessary in view of future developments, possibly over a period of years.

It should be remarked, however, that a policy of procrastination may seriously interfere with Bolivia's negotiations with the Argentine as reports from Buenos Aires indicate that the latter country would prefer to postpone an agreement with Bolivia until the latter has a clear title to the properties.

For the moment the matter rests at this stage pending the completion of Dr. Calvo's brief and the return of the Foreign Minister from Sucre toward the latter part of the week.

Respectfully yours,

R. HENRY NORWEB

824.6363 ST 2/145

The Minister in Bolivia (Norweb) to the Secretary of State

No. 244

LA PAZ, June 4, 1937.

[Received June 11.]

SIR: I have the honor to refer to my despatch No. 241, dated May 31, 1937,⁴² and to report that Mr. C. J. [F. C.] Pannill had his first

⁴² Not printed.

preliminary conversation with the Bolivian Minister of Foreign Affairs yesterday. The immediate object of Mr. Pannill's visit was to inquire, under instructions from New York, directly of Dr. Finot whether or not the Junta of Government was prepared to revoke, or cancel, the decree of March 13, 1937, as an essential precedent to the opening of discussions. Dr. Finot emphatically replied that this would be impossible for internal political reasons. Dr. Finot added that there was no object in discussing the legal aspects of the case for, "right or wrong, the Government is right". He added that since the Company, for its own reasons, does not desire to go to the Supreme Court, the only way out is for a transactional agreement, and added that the final agreement could be so drawn up that it would be in fact a revocation of the decree of March 13, 1937. Mr. Pannill informed me that Dr. Finot received him most cordially, and he gathered a distinct impression that the Minister of Foreign Affairs wants an adjustment.

Present indications are that if the Standard Oil Company of New Jersey is merely interested in getting out of Bolivia, desires only to obtain as much financial compensation as possible and is not interested in the equities of the case, an agreement would not be impossible.

Mr. Pannill, however, is becoming more and more inclined to the view that the aim of the Company should be to thwart the Bolivian Government's acts and delay it from consummating its plans with the Y. P. F. of Argentina. Dr. Finot mentioned to Mr. Pannill during the course of the conversation that Bolivia was at the mercy of the Argentine in this, as well as in other matters. Mr. Pannill feels that this case might be made a good precedent to all Latin American countries, particularly the Argentine and Peru, that the Standard Oil Company prefers to accept financial losses than to allow these countries to get the impression that it can be forcibly expelled.

I personally feel that an agreement without some prior understanding regarding cancellation of the March 13 decree is not advisable. It would appear that the best course would be for the Company to present the memorandum regarding the legal aspects of the case (this has not yet been completed by Dr. Carlos Calvo), then make a formal petition that the decree be cancelled and the Company's previous status fully restored, as a precedent to opening discussions towards an agreement legally transferring the properties to the Government. I am confident that Toro and Finot would not dare cancel the decree in view of the internal political situation. The result would be that the Company would have to bide its time until the political set-up here changes and then have recourse to the Bolivian courts.

I have come to the conclusion that this would be the better course since any agreement otherwise made with the Government would inevitably be interpreted throughout Latin America as a successful expulsion of the Standard Oil Company by the Bolivian Government, would eliminate any legal rights the Company might still have, the Company could expect very little compensation the payment of which would always be problematical, and it would be playing into the hands of the Argentine Y. P. F. The Bolivian Junta of Government at present appears to be wobbly, and any agreement involving payment over a period of time would probably not be recognized by any succeeding Government, particularly not by the young militarists.

Respectfully yours,

R. HENRY NORWEB

824.6363 ST 2/153

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 263

LA PAZ, June 28, 1937.

[Received July 6.]

SIR: I have the honor to refer to Instructions No. 68 and No. 71, dated June 7 and 10, respectively, regarding the Standard Oil Company of Bolivia.⁴³ The Legation was informed that the Department does not consider it desirable at the present time to reply to the communication from the Bolivian Minister for Foreign Affairs in view of the recent despatches suggesting that the best procedure for the present appears to be direct negotiations in La Paz without any active participation on the part of this Government.

The Legation understands that Mr. C. J. [F. C.] Pannill has sent word to the Bolivian Minister for Foreign Affairs that in view of their failure to reach an agreement for the cancellation of the Decree of March 13 prior to negotiations, he must regard his mission as unavailing. I am informed that when the Company's decision was communicated to the Bolivian Minister for Foreign Affairs, Dr. Finot sent word to Dr. Carlos Calvo insisting that an agreement should be arrived at without delay.

The "hands off" decision of the Company is in line with the suggestions of this Legation as contained in Minister Norweb's despatch No. 244, of June 4, 1937. The Company would appear to be warranted in delaying matters while studying the implications of the Bolivian Government's action on its interests in other Latin American

⁴³ Neither printed; instruction No. 71 transmitted to the Minister in Bolivia a copy of a letter of June 4, 1937, from the Standard Oil Company, the Department's reply thereto, and a copy of a memorandum prepared in the Division of the American Republics.

countries. On the other hand, I do believe that something should be done to keep the issue alive before the Bolivian Government and, if possible, to counteract the universal feeling among Bolivians that the Junta has done the Nation a great service in ridding the country of the Standard Oil whose expulsion is now a closed incident. I am astonished to find that such important Bolivian officials as Mr. Antonio Campero Arce, Sub-Secretary of the Ministry of Mines and Petroleum, and Mr. Walter Montenegro, Secretary to President Toro, consider that the matter is closed; that the Government's action was fully justified; and that the United States Government is not interested and will do nothing about the Standard Oil case. I am confident that neither of these persons knows that the United States Government has made its interest in the matter clearly evident to that of Bolivia. The attitude of these two government officials is a good reflection of that of the young "políticos" and of the ex-combatants.

The press here treats the matter as definitely settled. The Yacimientos Petrolíferos Fiscales Bolivianos is proceeding with the extraction and refining of petroleum products from the Standard Oil properties as if they were definitely its own. The national petroleum distribution company is developing a national distributing system under a fanfare of publicity, citing the blessings to the country of being independent of petroleum imports.

I have given considerable thought to the desirability of formulating, for suggestion to the Department, some act or plan to counteract the general impression amongst Bolivian officials and the Bolivian public generally that the Standard Oil matter is now a closed incident; that the United States Government is not interested and will not do anything. As to how this can best be done, I have come to no definite conclusion. Even though the Department were prepared to make an issue of the matter and to press strongly for the return of the properties, strong official representations would probably be unavailing at the present time. Such official representations would go to Finot, possibly as far as Toro, and certainly no further. I am confident that Toro and Finot would not dare cancel the decree of March 13th in view of the uncertainty of the internal political situation and that representations would not prevent their continuing to pose before the public as national benefactors. Should the United States unduly press such representations, forcing a successful conclusion, the political repercussions would likely be such as to precipitate the downfall of the present military Junta. This, in turn, would provide political capital to opponents of the United States and give rise to possible criticism of undue interference in internal matters of a friendly country. Furthermore, it would adversely affect the influence of the United States in the Chaco Peace Conference, possibly endangering the success of those negotiations.

Possibly a statement at one of the press conferences from an official of the Department that the Standard Oil Company and the Bolivian Government are still searching for an amicable settlement of their differences and that it is the hope of the Department that a friendly adjustment may be found in the near future, might serve the purpose. Such a statement would have its effect on other Latin American governments, but I am confident that Toro and Finot would see to it that it did not reach the Bolivian public through the local press.

My only definite suggestion at this time is that the Standard Oil Company should have a competent American representative in La Paz to observe developments and little by little build up a situation to a point where negotiations may again be resumed. His mere presence would keep the matter before the Bolivian Government and populace generally, particularly if he were the type that had the knack of mixing with local officials and residents. In view of the internal political situation this cannot be done effectively by the two Bolivian citizens now here representing the Company.

Respectfully yours,

JOHN J. MUCCIO

824.6363 ST 2/172

The Secretary of State to the Minister in Bolivia (Caldwell)

No. 4

WASHINGTON, September 11, 1937.

SIR: There is enclosed a copy of a memorandum prepared in the Department, dated September 7, 1937,⁴⁵ regarding the difficulties between the Bolivian Government and the Standard Oil Company of Bolivia.

You are requested to report promptly to the Department all information that may come to your attention regarding any phase of this case. Copies of any telegrams and despatches on the subject also should be transmitted to the missions at Buenos Aires and Rio de Janeiro and to the American Delegate to the Chaco Peace Conference, American Embassy, Buenos Aires.

A copy of the memorandum and an instruction similar to this one are being sent to the missions at Buenos Aires and Rio de Janeiro and to the American Delegate to the Chaco Peace Conference, American Embassy, Buenos Aires.

Very truly yours,

For the Secretary of State:
HUGH R. WILSON

⁴⁵ Not printed.

824.6363 ST 2/175

*The American Delegate to the Chaco Peace Conference (Braden) to
the Secretary of State*

No. 506

BUENOS AIRES, September 22, 1937.

[Received September 30.]

SIR: I have the honor to refer to the Department's special instruction of September 11, 1937⁴⁶ enclosing a memorandum dated September 7, 1937 regarding the difficulties between the Bolivian government and the Standard Oil Company of Bolivia.

In a conversation with Sr. David Alvéstegui, Bolivian delegate to the Chaco Peace Conference, on September 21, 1937, he informed me that although he was not intimately informed on the state of oil negotiations between Bolivia and Argentina, he knew that the head of the Y. P. F. Boliviano has made several trips to Buenos Aires recently and that he has held active conversations with officials of the Y. P. F. Argentina.

It is Sr. Alvéstegui's understanding that under the proposed agreement Bolivian oil will not be purchased by the Argentine government or by the Y. P. F. but will be permitted to enter Argentina "on the most favorable basis possible," and he understands thereby that it will compete equally with Peruvian oil imported under the Argentine-Peruvian *modus vivendi* of February 1937. He does not know how the oil will be marketed. I was informed that the final agreement is being held in abeyance until the arrival here next month of Sr. Finot, newly appointed Bolivian Minister to the Argentine, who having initiated the whole business while serving as Foreign Minister wishes to conclude the negotiations himself.

Sr. Alvéstegui tells me he has heard nothing from Bolivia to indicate that a commission of reputable Bolivian citizens might be appointed to study the question. The failure of Sr. Baldvieso to accept the Ministry for Foreign Affairs may explain the silence.

Neither Ambassador Alvéstegui nor Ambassador Rodrigues Alves⁴⁷ have yet received any information respecting the activities of the Brazilian commission sent to Bolivia.

Respectfully yours,

SPRUILLE BRADEN

⁴⁶ See last paragraph of instruction No. 4, September 11, to the Minister in Bolivia, *supra*.

⁴⁷ José de Paula Rodrigues Alves, First Brazilian Delegate to the Chaco Peace Conference.

824.6363 ST 2/176

The Minister in Bolivia (Caldwell) to the Secretary of State

No. 29

LA PAZ, September 22, 1937.

[Received September 30.]

SIR: In compliance with the Department's strictly confidential instruction No. 4 of September 11, 1937, enclosing a memorandum dated September 7, 1937, regarding the difficulties between the Bolivian Government and the Standard Oil Company of Bolivia, I have the honor to report that, negotiations between the Company and the Bolivian Government having now been in abeyance for some time, the concrete features of the situation have not been substantially modified in any respect not previously reported to the Department in earlier despatches from the Legation.

From a careful examination of the files on this subject, however, and on the basis of informal conversations with persons who are presumably well informed, it may not be without convenience to summarize the chief features of the existing situation somewhat as follows:

1. The present Government of Bolivia is generally regarded as more conservative and reliable than its predecessor, this remark applying particularly to President Busch, who, although without large political experience, gives the impression of a definite desire to give to the country a reasonably honest and effective government. President Busch has secured the cooperation of a number of individuals who are generally respected for their ability and integrity, especially the Minister of Foreign Affairs, Dr. Fabián Vaca Chávez, the Minister of Finance, Dr. Federico Gutierrez Granier, and the Minister of Mines and Petroleum, Colonel Felipe M. Rivera, who spent three years as a student in the United States and who seems especially friendly. This Government has, of course, inherited a situation with regard to the development of oil in Bolivia which was not of its own making, and is accordingly in a better position to seek a solution than that of Colonel Toro, who was so openly and publicly committed to a specific, radical policy in this respect.

2. It seems to be generally recognized here in La Paz, as was at one time frankly acknowledged by Minister Finot in a conversation with Mr. Norweb, that the charges of fraud, on account of the shipment of 704 tons of crude oil by the Standard Oil Company of Bolivia in 1925-1926, were of a purely technical character. In any case, in connection with the decree of confiscation of March 13, 1937, and later, no real evidence was adduced that there had been any conscious or deliberate fraud on the part of the Standard Oil Company of Bolivia. If any facts of this character were in existence it would

seem reasonable to suppose that such information would have been made public long since. On the other hand, the real grievance of the Bolivian Government lay in the fact that the Standard Oil Company of Bolivia was supposed to be treating its oil concessions as a potential reserve and that, however sound the reasons might be from an economic point of view, it had proved unwilling to proceed to the development of these oil fields even to the extent of supplying the ordinary necessities of the country. There seems to be little doubt, accordingly, that a leading purpose in the measure of confiscation was the hope of securing the rapid development of oil regions which were supposed to be capable of very much larger production and, at the same time, of using the property thus acquired as a pawn in the solution of pending difficulties between Bolivia and Paraguay arising out of the controversy in the Chaco.

3. Almost from the beginning thoughtful and intelligent Bolivians, even those connected with the Government, came to realize that Bolivia had neither the capital nor the necessary technical ability or experience to work out by herself the difficult problems connected with the production of oil. Thus, it is currently reported that, even without capital charges, the small quantity of gasoline now produced is marketed at a serious loss. Accordingly, it has been entirely natural for Bolivia to look to outside assistance in this respect, particularly to Argentina and to some extent Brazil. A solution along these lines has, however, proved to be much more difficult than had been previously expected, partly on account of the well known rivalry between these two neighbors and also on account of the very doubtful legality of the Bolivian Government's title to the property of the Standard Oil Company of Bolivia under the confiscatory decree of March 13, 1937.

4. Probably for the reasons indicated above, members of the present government make no secret whatsoever of their desire to arrive at a definite solution which would remove existing doubts as to the validity of title. In the existing political situation it would obviously be extremely difficult for even a very strong government to cancel the confiscatory decree or to make an outright return of the property in question. It seems probable, however, that the Bolivian Government would be willing to consider an arrangement withdrawing previous charges of conscious fraud and arranging for compensation to the Standard Oil Company of Bolivia for the property rights which the Bolivian Government greatly needs in connection with both its diplomatic and its economic plans. It has even been suggested in this connection that indirect technical participation by the Standard Oil Company might not be unwelcome to Bolivian authorities as a possible off-set to the only other alternative, which would appear to be the

active development of the oil regions of Bolivia by such powerful neighbors as Argentina or Brazil.

In this connection it may also be mentioned that it is the belief of certain diplomatic colleagues who are often well informed, particularly the Peruvian and the Mexican Ministers, that the question of the oil fields is intimately connected with negotiations for a final settlement of difficulties in the Chaco and that a previous settlement of the oil problem would facilitate the determination of a definite, permanent boundary between Paraguay and Bolivia in this region.

Respectfully yours,

ROBERT G. CALDWELL

824.6363 ST 2/177

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

No. 54

RIO DE JANEIRO, September 30, 1937.

[Received October 7.]

SIR: I have the honor to refer to the Department's strictly confidential instruction No. 9 of September 11, 1937,⁴⁸ regarding the difficulties between the Bolivian Government and the Standard Oil Company of Bolivia.

In conversation yesterday with a high official of the Brazilian Foreign Office, this official stated that the Brazilian Mission which has been in Bolivia recently has completed its studies and will return very shortly to Rio de Janeiro and will submit certain recommendations to the Brazilian Government. He explained that Brazil has become increasingly concerned at Argentine economic expansion into Bolivia, which Brazil feared would bring southern Bolivia under Argentine influence in much the same way that Paraguay now is. He especially referred to the alleged Bolivian-Argentine agreement under which there will be constructed, with Argentine capital, a railway from the Argentine frontier north to Santa Cruz. The Foreign Office understands that the section from the Argentine frontier to Camiri will be administered as an Argentine railway pure and simple, while the section from Camiri to Santa Cruz will be administered by Bolivia as a Bolivian railway. In order to combat this Argentine penetration into Bolivia, the Brazilian Mission has made the following recommendations which the Foreign Office believes will be adopted by the Brazilian Government:

Firstly, Brazil will construct a railway from Porto Esperança to Corumbá and from Corumbá to Santa Cruz.

⁴⁸ See last paragraph of instruction No. 4, September 11, to the Minister in Bolivia, p. 294.

Secondly, Brazil will construct a railway from Santa Cruz to Cochabamba; and

Thirdly, studies will be made of the possibility of construction, either of a railway or a motor road, from Santa Cruz north to Puerto Grether.

The Foreign Office official pointed out that inasmuch as the principal oil fields are located between Yacuiba and Camiri, these fields will be more accessible to Argentina than to Brazil. However, Brazil hopes that at some future date arrangements may be made to secure at least part of the oil. It would then be possible to transport the oil by railway to Santa Cruz, Corumbá, and thence to São Paulo. He added that should the railway or motor road finally be constructed from Santa Cruz to Puerto Grether, this will also make it possible to transport petroleum to northern Brazil via the Rio Ichilo-Rio Mamore-Rio Madera and thence via the Amazon River. He explained, however, that Brazil has made absolutely no arrangement with the Bolivian Government as regards the purchase of petroleum, and this question will only be taken up in the future.

The Foreign Office official added that, under the Treaty of Petropolis of 1903,⁴⁹ Brazil still owes Bolivia one million pounds sterling, and, should the agreement mentioned above be ratified by the Brazilian Government, the latter will use this sum to commence construction upon the Porto Esperança-Corumbá-Santa Cruz section, which he estimates will cost approximately one and a half million pounds sterling.

The Brazilian Commission is expected to return to Rio de Janeiro in the near future, and the Foreign Office volunteered to furnish the Embassy with further details when the Commission delivers its detailed report.

Respectfully yours,

For the Ambassador:
R. M. SCOTTEN
Counselor of Embassy

824.6363 ST 2/188

The Minister in Bolivia (Caldwell) to the Secretary of State

No. 53

LA PAZ, October 22, 1937.
[Received October 28.]

SIR: With reference to the Legation's telegram No. 60, dated October 19, 4 p. m.,⁵⁰ I have the honor to report that Mr. H. A. Metzger, special representative of the Standard Oil Company, arrived in La

⁴⁹ Dated November 17, 1903, for text, see Bolivia, *Tratados Vigentes, 1825-1925* (Bolivia, 1925), vol. I, p. 150.

⁵⁰ Not printed.

Paz on October 9th, and that after various exploratory conversations, interviews were arranged through the Foreign Office in which I presented Mr. Metzger to the Minister of Mines and Petroleum on October 18th, and to the Minister for Foreign Affairs on the following day, stating on each occasion that I was presenting Mr. Metzger to them in the hope that through friendly, informal conversations, directly undertaken between the two parties, the issues might be sufficiently clarified to make possible at the proper time an equitable solution of existing difficulties which might prove satisfactory to each of the two parties, with each of which we had a friendly relationship.

In the conversation on October 18th with the Minister of Mines and Petroleum, who is, of course, the officer of Government chiefly concerned with this matter, after the initial remarks on my part reported above, the Minister, Colonel Rivera, from whom I had previously ascertained personally that he would like to have an opportunity to talk to Mr. Metzger, entered at once into the fundamental problem in a tone which seemed both to Mr. Metzger and myself definitely friendly and encouraging.

The Minister stated at the outset that neither he personally nor—he felt sure—the Junta of Government, would be in a position to take the initiative in suggesting any given, concrete solution which might seem to imply a criticism of a previous government. He did feel very strongly, however, that it was very important to keep the door open for an eventual solution, and he went on to say that it was for that reason that he had especially welcomed an opportunity for an initial interview with Mr. Metzger. The Minister suggested in this connection the desirability of the submission of one or more plans to be presented to him by the representative of the Standard Oil Company and which would serve as a basis for friendly discussions. Colonel Rivera again emphasized at this point the necessity for a conciliatory approach on the part of the Company. He called attention to the delicacy of the problem on account of the existing state of public opinion in the country and closed with the renewed hope that the door might be kept open, and that with patience and good will on both sides an equitable solution might be eventually arrived at.

The interview on the next day with the Minister for Foreign Affairs was friendly but naturally very general in character, and did not serve to throw any further light on the probable attitude of the existing Government to possible direct negotiations. Mr. Metzger and I were, however, both impressed with the desirability of meeting Colonel Rivera's suggestions of October 18th at least halfway, in the same friendly spirit which he had displayed, it being, of course, my understanding that having once presented Mr. Metzger to Colonel Rivera

further conversations would naturally be carried on at the proper time between the two parties directly concerned, without any immediate necessity for direct assistance on the part of the Legation.

In these circumstances, accordingly, Mr. Metzger prepared a brief telegraphic report to his Company in which he suggested the acceptance of Colonel Rivera's invitation and presented two alternative plans for the consideration of New York, the first involving cancellation of the decree of March 13th and an offer of sale on the part of the Company at an equitable price later to be determined between the two parties, and the second and alternative proposition involving an offer of a further investment of as much as \$15,000,000 by the Company for the intensive development of the existing oil fields over a period of the next fifteen years, the details of this second plan having been already worked out by technical experts of the Company in Buenos Aires for consideration by New York if such a plan should prove to be practicable.

Merely on the basis of the conversation with Colonel Rivera reported above, one or the other of these plans seemed to have a reasonable promise of serving at least as a basis for friendly discussion. Even if the suggested plans were rejected in their initial form, the door would at least be left open, as Colonel Rivera had suggested, for such modifications or suggestions as might arise in the course of initial interviews on this subject.

When, however, Mr. Metzger consulted yesterday the local attorney of the Standard Oil Company of Bolivia, Dr. Carlos Calvo, he found that Dr. Calvo was very pessimistic as to the possibility of any direct arrangement with the existing government. Dr. Calvo had no doubt that Colonel Rivera would personally favor an equitable compromise, but he did not believe that in existing political conditions the present government would be strong enough to support Colonel Rivera in his position. Dr. Calvo also believed that the second plan, involving possible resumption of operations by the Standard Oil Company in Bolivia would never be accepted by any government here. He also emphasized the strong legal position of the Company and advised again, as he had previously done in the public press, a period of watchful waiting with an eventual appeal to the courts, in which sooner or later he believed that the Company would win a complete judicial victory. Dr. Calvo acknowledged, however, that the process which he had in mind would probably require as much as five or ten years, during which time the problem of the Standard Oil Company would continue to be a more or less disturbing factor in current local politics.

In view of the two very different approaches to the problem which have now been suggested by Colonel Rivera and by Dr. Calvo, Mr. Metzger is now giving further consideration to the report and the

recommendations which he will be sending to New York within the course of the next few days.

Respectfully yours,

ROBERT G. CALDWELL

824.6363 ST 2/186 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, October 25, 1937—5 p. m.

[Received 7:30 p. m.]

62. Referring to my despatch 53, dated October 23 [22], Calvo has now been reliably informed that the Government is considering a decree in few days requiring submission of controversy to court within 90 days. Such action would automatically prevent direct discussions which Calvo now agrees with Metzger in recommending to New York. Foreign Office requests copies of messages contained in Department's telegram No. 10, of April 26, 8 p. m. and 14, May 7, 1 p. m. and of Finot's reply which Finot did not leave in their files. In the circumstances the copies requested or fresh instructions of similar tenor seem desirable to promote direct friendly negotiations.

CALDWELL

824.6363 ST 2/187 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, October 26, 1937—noon.

[Received October 26—11:57 a. m.]

63. My 62, October 25, 5 p. m. Decree dated October 22 published last night prescribes that litigations arising from Government resolutions or administrative acts affecting contracts or concessions with the state must be submitted to supreme court within 90 days of administrative act. Those pending on date of decree given 90 days from date thereof. Effect on proposed Standard Oil Company negotiations not yet ascertained.

CALDWELL

824.6363 ST 2/186 : Telegram

The Secretary of State to the Minister in Bolivia (Caldwell)

WASHINGTON, October 28, 1937—7 p. m.

29. Your 62, October 25, 5 p. m. and 63, October 26, noon. You are authorized to permit the Minister for Foreign Affairs to read a copy of the second paragraph of the Department's telegram no. 10 of April 26, 8 p. m.

The Department's telegram no. 14, May 7, 1 p. m. contains a personal and confidential message from the Secretary to Dr. Finot. The Department would have no objection to allowing the Bolivian Minister for Foreign Affairs to have a copy of that message as quoted in the telegram, but, as a matter of courtesy to Dr. Finot, the Department is of the opinion that the Foreign Office should also obtain Dr. Finot's agreement to such procedure. As concerns Dr. Finot's reply to the Secretary's message (see Legation's despatch 227 of May 17⁵¹), the Department would offer no objection were the Bolivian Foreign Office to request and receive from Dr. Finot a copy of the reply under reference. If the Foreign Office does obtain a copy of Dr. Finot's reply, you are requested to explain to the Bolivian Minister for Foreign Affairs that no further communication was sent to Dr. Finot because of the fact that direct negotiations between the Bolivian Government and the company's representatives in La Paz had been resumed.

The Department is of the opinion that there is no action it can appropriately take with respect to the decree of October 22. Subsequent action by this Government will depend of course, upon the situation that results from the submittal of the case to the supreme court of Bolivia.

HULL

824.6363 ST 2/189 : Telegram

The Secretary of State to the Minister in Bolivia (Caldwell)

WASHINGTON, November 13, 1937—7 p. m.

30. Your despatch 59, October 28, 1937.⁵¹ You will please obtain an interview at an early opportunity with the Bolivian Minister for Foreign Affairs. You may express to him the continuing interest of your Government in the Standard Oil Company case, and repeat the hope of your Government that a solution satisfactory both to the Bolivian Government and to the Company may be reached through direct negotiations between the two parties conducted in a friendly spirit.

With reference to the decree of October 22, please inform the Foreign Minister that, in the opinion of the Department, an extension of the period of 90 days set by the decree appears justifiable in order to allow the company time for an adequate presentation of its case; and that, consequently, the Department hopes that the Bolivian Government will extend the time limit of 90 days to such reasonable period as may be deemed necessary by the company's counsel.

⁵¹ Not printed.

Please inform the Department briefly by telegram regarding the results of your interview with the Minister.

HULL

824.6363 ST 2/189

The Under Secretary of State (Welles) to the Representative of the Standard Oil Company of New Jersey (T. R. Armstrong)

WASHINGTON, November 15, 1937.

MY DEAR MR. ARMSTRONG: With reference to my conversation with you and Mr. Pannill last week, the American Minister at La Paz is being instructed to express to the appropriate officials of the Bolivian Government the hope that the time limit of ninety days, set in the Bolivian decree of October 22, may be extended as concerns the case of the Standard Oil Company of Bolivia. Reports received by the Department are to the effect that the Bolivian Minister for Foreign Affairs has informally given the impression that such an extension might be granted.

There are several factors which have led the Department to the decision that it should not request arbitration of the case at this time. In spite of the considerations set forth in the memorandum of November 8, 1937,⁵³ which you left with me, the fact remains that there has been no resort to the Bolivian courts regarding the cancellation of the contract. In the second place, it is understood that Bolivian officials have stated that the decree of October 22 should not interfere with "prospective informal, exploratory conversations with the representative of the Standard Oil Company now in La Paz". Finally, you will appreciate that there are inherent dangers in proceeding to arbitrate in the absence of exhaustion of remedies provided by Bolivian law, especially in view of the Calvo clause in the concession contract.

It is the judgment of this Department that in order to protect the company's rights the company should take immediate steps to present its case to the Supreme Court of Bolivia before the expiration of the ninety-day period set in the decree of October 22, in order to avoid difficulties in the event that an extension of this period should not be granted. There appears to be reason to believe that such legal steps need not prejudice the informal and friendly discussions which have been initiated between representatives of the Bolivian Government and of the company.

Sincerely yours,

SUMNER WELLES

⁵³ Not printed.

824.6363 ST 2/194 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, November 16, 1937—9 a. m.

[Received 9 : 24 a. m.]

65. In conversation yesterday based on Department's telegram No. 30, November 13, 7 p. m., Foreign Minister assured me Bolivian Government would keep door open for friendly negotiations. Success would depend on conciliatory formula taking into account not only the principle but also the practical difficulties of the problem for Bolivian Government.

He promised to recommend extension of 90-day period to Junta of Government in order to allow time for direct negotiations and will convey decision reached to me as soon as possible.

CALDWELL

824.6363 ST 2/196

The Minister in Bolivia (Caldwell) to the Secretary of State

No. 73

LA PAZ, November 17, 1937.

[Received November 26.]

SIR: Referring to my telegram No. 65 of November 16, 9 a. m. I have the honor to report that I have not yet received a reply regarding my inquiry made to the Minister of Foreign Affairs on November 15, as to the possibility of an extension of the ninety day period provided by the decree of October 22, in order to allow adequate time for the preparation of its case by the Standard Oil Company as well as to facilitate informal negotiations in a friendly spirit. It seems probable that a decision on this important question will not be reached until the regular meeting of the Junta of Government which is expected to take place on Friday morning November 19.

In the meantime President Busch has given an interview to the press which appeared in *La Razon* for November 16, (of which a complete translation is enclosed in Despatch No. 72 dated November 17,⁵⁴) in which among other topics he re-states publicly his belief in the illegal character of the acts previously charged by the Government against the Standard Oil Company of Bolivia.

I continue to believe that the friendly conversations which have been proposed may still be useful in giving more time for careful consideration of all aspects of the case. In the light of the recent public declaration by the President of the Bolivian Republic, I have however

⁵⁴ Not printed.

come somewhat reluctantly to the conclusion that the issue between the Government and the Company is now too sharp and definite to be capable of ready adjustment or compromise.

On the one hand the Bolivian Government has stated publicly on various occasions that the Company was guilty of deliberate frauds which justify, morally and legally, the confiscatory decree of March 13, 1937. On the other hand the Company maintains the position that no frauds were committed and that the decree of March 13, is wholly arbitrary and illegal; and further points out the fact that, although the Government has had exclusive control of the confidential files of the Company since the date indicated above, convincing evidence of deliberate fraud has not yet been adduced, for the reason that in its judgment such evidence does not exist.

On an issue so sharply and publicly drawn, it seems to me almost impossible for either this Government or any other which is likely to succeed it to give a decision favorable to the Company, at least on the fundamental question of principle which is involved. This difficulty applies not only to the executive branch but also to the judiciary which is—as I believe reliably reported—to be completely subject to the control of the executive.

Even such a favorable judgment on the main question, entirely improbable as it seems, would scarcely be satisfactory from the broader point of view of the American interests in this part of the world. For there can be little doubt that the agency, either executive or judicial, making such a favorable decision would at once be charged not only by the newspapers in Bolivia but also throughout South America with having yielded to pressure from the American Government; and some newspapers would undoubtedly go so far as to say that the agency in question had yielded not only to intimidation but even to bribery.

On the other hand in case, as seems entirely probable, the executive or judicial opinion should be unfavorable to the Company, the Company would undoubtedly continue to believe, with considerable show of reason, that it had been the victim of a prejudiced unilateral decision; and for that reason the amicable solution of the question would be made still more difficult and remote than it is today.

The fundamental question at issue is however a definite matter of law and of fact; and especially in the new circumstances which have now arisen, I venture to express the personal belief that it is exactly the kind of a question which ought to be capable of solution, with due regard to the proper dignity of all parties concerned, by the adjudication of an impartial outside agency; and to add that in my judgment a situation has now arisen in which such a solution is the only one which gives any great promise of just and mutually satisfactory results. This seems especially true because such a solution

would be so completely in accord with the principles so recently enunciated at Buenos Aires and because it would avoid inevitable criticisms which would otherwise be raised by one party or the other against the American Government on grounds of supposed partiality in the case.

In this purely tentative suggestion, I do not of course have in mind, at least at the present time, anything approaching a formal international arbitration. For I realize that the position of the American Government is that of a friendly mediator rather than of a party to the dispute. For that reason, and also because of the decisive character of the result for the two parties directly concerned, such reference of the fundamental issue to an impartial outside agency would almost necessarily originate with one or the other of the two parties, perhaps as an item in the friendly conversations which have been proposed.

It seems reasonable to suppose that the Bolivian Government might welcome a possible solution which, in the light of existing local opinion on the question, would relieve it from the necessity for a direct decision which must at best prove to be difficult and embarrassing. Since, however, the attitude of either party to such a possible solution is as yet necessarily unknown, and remains a matter of mere surmise, if at any time direct information should seem desirable to the Department, it would of course be feasible, and perhaps even helpful, to sound out in a purely personal and informal way the views of the Minister for Foreign Affairs on a solution of this general type, and in the first instance purely as a matter of background regarding an important question of common interest.

Respectfully yours,

ROBERT G. CALDWELL

824.6363 ST 2/198 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, November 27, 1937—5 p. m.
[Received November 27—3:40 p. m.]

68. Captain Calvo, Chief Counsel of Standard Oil Company, deported to the Argentine Republic today. Metzger requests that New York be notified.

CALDWELL

824.6363 ST 2/199 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, November 30, 1937—10 a. m.
[Received November 30—9:45 a. m.]

69. Referring to my telegram No. 65, November 16, 9 a. m., in extended conversation with new Foreign Minister yesterday I asked:

(1) whether Government was ready to undertake direct conversations; (2) to extend 90-day period sufficiently to allow adequate preparation of case for courts; or (3) to suggest an alternative solution of Standard Oil Company problem.

The Foreign Minister replied he was not familiar with recent developments but would present my inquiries to Junta in a friendly spirit and hoping for a prompt and constructive reply.

CALDWELL

824.6363 ST 2/196 : Telegram

The Secretary of State to the Minister in Bolivia (Caldwell)

WASHINGTON, December 2, 1937—11 a. m.

31. Your despatch 73, November 17, 1937. The Department will be very glad to have any suggestions that may lead to a solution of the Standard Oil Company's case. However, before reaching any decision regarding a discussion with the Minister for Foreign Affairs, as set forth in the last paragraph of your despatch, the Department would have to have more specific information regarding what you have in mind as "an impartial outside agency."

With reference to the last paragraph of your despatch 74, November 19,⁵⁵ the Department already has informed the New York office of the Standard Oil Company that the Department believes the Company should present its case to the Supreme Court in accordance with the provisions of the decree of October 22, in order to protect the Company's legal position.

With reference to your telegram 68, November 27, 5 p. m., please telegraph briefly the reasons for the deportation of Calvo. The Department has not notified the New York office of the Company regarding the deportation, since it is of the opinion that it should not act as a vehicle of communication for the Company.

HULL

824.6363 ST 2/202 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, December 3, 1937—2 p. m.

[Received 4:30 p. m.]

70. As to paragraph 1 of the Department's telegram No. 31, December 2, concrete suggestion which I had in mind but which has been discussed with no one would be submission of title now held *de facto* by YPFB to eminent jurist to be selected by President of the Argen-

⁵⁵ Not printed.

tine Republic or other American Republic at joint request of Bolivia and the United States acting as mediatory agencies. On account of special interests neither party could easily reject proposal which would probably add to friendly feeling for the United States.

Deportation of Calvo was followed late same day by that of Saavedra. Reason officially given was subversive political activities, but action was taken without knowledge or approval of Foreign Minister. In Calvo's case there can be little doubt that a leading reason was his connection with the Standard Oil Company which was regarded by military leaders as unpatriotic.

CALDWELL

824.6363 ST 2/201 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, December 3, 1937—3 p. m.

[Received 3:15 p. m.]

71. Referring to my telegram No. 69, November 30, 10 a. m., in exploratory conversation today Foreign Minister told me he personally favored postponement of proposed conversations and of court action until after establishment of constitutional government following elections in March. Definite decision by Junta not expected by him before next Friday.

CALDWELL

824.6363 ST 2/202 : Telegram

The Secretary of State to the Minister in Bolivia (Caldwell)

WASHINGTON, December 6, 1937—4 p. m.

32. Your telegrams 70, December 3, 2 p. m., and 71, December 3, 3 p. m. The Department is of the opinion that, until you are informed of the definite decision by the Junta, you should take no further action in the case except to follow and report upon important developments. Air mail instruction follows.

HULL

824.6363 ST 2/202

The Secretary of State to the Minister in Bolivia (Caldwell)

No. 31

WASHINGTON, December 6, 1937.

SIR: The Department refers to your telegrams nos. 70, December 3, 2 p. m., and 71, December 3, 3 p. m., and to its telegraphic instruction in reply thereto regarding the Standard Oil Company of Bolivia.

Since the Bolivian Government is one of the parties to the dispute, the Department is of the opinion that the Bolivian Government could

not very well act as a mediatory agency in the case. Nor does it seem advisable to the Department that the Government of the United States, at the present time, should join in any request for the appointment by the President of Argentina or some other American republic of an eminent jurist to pass upon the question of the title to the properties involved. The Department is of the opinion that the company should exhaust all of its remedies in Bolivia, and that every effort should be made to continue conversations between the Bolivian Government and the company, looking toward a possible solution of the present difficulties. The signature of a convention on petroleum between Bolivia and Argentina would appear to give the Government of the latter country a special interest in the case and so make it inadvisable that the President of Argentina should be requested to select a jurist as suggested by you.

If the procedure favored by the Bolivian Minister for Foreign Affairs is followed, namely, that both conversations between the Government and the company and court action upon the case be postponed until after the establishment of a constitutional government following the elections in March, it seems to the Department that no constructive action will be possible for several months. Presumably, also, as soon as a constitutional government is organized and a congress is in session, action will be taken upon ratification of the petroleum convention between Bolivia and Paraguay. It would seem highly desirable that, if possible, friendly conversations between representatives of the Bolivian Government and the company should be resumed as soon as conditions make such conversations possible.

The Department will be glad to have your further comment upon these factors in the case and in the light of whatever decision may be reached by the Junta of Government.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

824.6363 ST 2/206 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, December 12, 1937—noon.

[Received 12:15 p. m.]

78. Referring to Department's telegram No. 32, December 6, 4 p. m., the Legation was informed orally by the retiring Foreign Minister that at a Cabinet meeting yesterday the Junta decided: (1) that there was no room for conversations with the Standard Oil Company; and (2) that the only recourse of the company is application to the court within the time fixed by the decree of October 22.

CALDWELL

824.6363 ST 2/206 : Telegram

The Secretary of State to the Minister in Bolivia (Caldwell)

WASHINGTON, December 13, 1937—8 p. m.

38. Your 78, December 12, noon. Does the decision of the Junta mean that the Bolivian Government has refused the extension of time that was the subject of the Department's 30, November 13, 7 p. m.?

HULL

824.6363 ST 2/207 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, December 14, 1937—4 p. m.

[Received 6:44 p. m.]

80. Referring to Department's telegram No. 38, December 13, 8 p. m., the message contained in my telegram 78, December 12, noon, was transmitted textually. Since Dr. Baldivieso had already resigned there was no comment on either side. To clarify situation I am seeking early appointment with new Minister.

CALDWELL

824.6363 ST 2/209 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, December 15, 1937—5 p. m.

[Received 5:30 p. m.]

82. Referring to the Legation's telegram 80, December 14, 4 p. m., new Foreign Minister requests that reply transmitted by my telegram No. 78, December 12, noon, be regarded as merely tentative pending reconsideration by modified Junta. He personally regards extension of 90-day period as desirable.

CALDWELL

824.6363 ST 2/210 : Telegram

The Minister in Bolivia (Caldwell) to the Secretary of State

LA PAZ, December 18, 1937—9 a. m.

[Received 9:40 a. m.]

83. Referring to Legation's telegram 82, December 15, 5 p. m., Foreign Minister telephoned me last night that at request of the American Government the Junta had decided by unanimous vote to extend by 2 months the period provided by the decree of October 22nd. He added that arrangements had also been made for direct conversations with the company looking to equitable solution.

Expect to learn further details today.

CALDWELL

BRAZIL

ABROGATION OF BRAZILIAN CONSTITUTION AND PROMULGATION OF A NEW ONE CONTINUING PRESIDENT VARGAS IN OFFICE; CONTINUANCE OF DIPLOMATIC RELATIONS WITHOUT FORMAL ACT OF RECOGNITION

832.00/1077 : Telegram

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

RIO DE JANEIRO, November 10, 1937—5 p. m.

[Received 6:07 p. m.]

147. My 146, November 10, 3 p. m.¹ The Minister for Foreign Affairs told me this afternoon that he desired to explain to me, before any other Ambassador, the political situation leading up to the events of today. He said that the Government had found itself faced with an electoral campaign which would have inevitably ended in a revolution. For this reason the President had endeavored to find a compromise third candidate. With this in mind he sent an emissary to the governors of the various states but was unable to obtain the consent of the governors of Pernambuco and Bahia.

This Minister added that the constitution of 1934 did not give the Executive strong enough powers to govern the country properly. After carefully sounding out public opinion in the different states, he has put forth by decree a new constitution which will be submitted at an early date to a plebiscite. This constitution will preserve the democratic institutions but will give additional powers to the President and will provide for his continuing in office for 6 years more. The constitution makes special provision for the welfare of the laboring classes.

The Minister added that it is not the intention of the Government to persecute individuals and only a few politicians have been placed under detention in their own homes. Furthermore, all of the members of the Cabinet with the exception of the Minister of Agriculture are now in agreement with the President. The Minister of Agriculture alone has resigned and will shortly be replaced.

The Minister added that the Government intends to continue its present foreign policy, and especially its cordial relations with the United States, and has no imperialistic aims or designs. The Minister said that the Government fully realized the need of foreign capital

¹ Not printed.

and assistance in developing the nation and he explained that the Government intends to pursue a very liberal policy with respect to foreign capital and foreigners who have legitimate interests in Brazil.

The Minister asserted emphatically that integralism had no part whatsoever in the present change. He characterized the Integralistas as "clowns in the political circus" and nothing more. In fact, he said that one of the primary reasons for the coup of today came from the President's realization that decisive action was necessary to "put the brakes" on the growing Integralista movement.

The Minister earnestly hopes that the United States will adopt an attitude of sympathy and understanding toward the present changes.

In my opinion the coup of today is the climax of a carefully prepared plan. I believe that it was the President's intention, however, to put it into effect next week and that the action of today was precipitated by Deputy Machado's reading of the manifesto yesterday.

I might add that I am a little skeptical about the effective "preservation of democratic institutions" under the new constitution.

CAFFERY

832.00/1089a : Telegram

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

WASHINGTON, November 12, 1937—1 p. m.

74. Personal for the Ambassador from the Under Secretary. The press in this country, as was to be anticipated, has reacted immediately to recent events in Brazil by emphasizing the Fascist nature of the new setup and by intimating that the change in government must have some connection with the Rome-Berlin Axis.

In order to attempt to prevent unduly exaggerated stories of this character which might in the long run have a definitely prejudicial effect upon our relations with Brazil, I had an entirely off the record and personal conversation with some of the American correspondents and editorial writers yesterday in which I indicated my purely personal belief, from the information which I had received, that the change which has taken place in Brazil was not inspired by the European dictatorships and corresponded to a tendency which has frequently been manifested in Latin American republics in past years. I made no effort to under estimate the Fascist and Nazi propaganda in Brazil and I likewise added that it would be premature to form any final conclusions, but that for the moment, at least, I had no great anxiety with regard to the implications.

I wish at as early a moment as you deem appropriate you would endeavor to have a private conversation with President Vargas which will not be known to the public and ascertain from him what his reactions may be to the claims publicly made in Rome and in Berlin

that the recent change in the Brazilian Government is one which is sympathetic to the regime in Germany and in Italy.

I understand from your recent telegrams that the Integralista party has no part in the present setup but that, at least until very recently, it appeared to support President Vargas and to have his tacit approval. I should appreciate such further light as you may throw on this subject.

Under present conditions I feel that we should have the fullest information possible with regard to all developments in Brazil and specifically with regard to any possible increased influence with the Government of the German and Italian Governments. In this connection I suggest for your consideration that you instruct the principal consular officers under your jurisdiction to have a conference with you in Rio and that you advise them very confidentially of your need to have the fullest information which they may obtain for you with regard to the activities of the German and Italian colonies within their respective jurisdictions, and likewise all information possible concerning increased propaganda from German and Italian sources.

Our relations with President Vargas and with his associates have been so particularly close and friendly during these recent years that I, of course, cannot assume that those relations will be in any way affected by the recent change in government. I should like, of course, to have reassurances on this point.

HULL

832.00/1091 : Telegram

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

RIO DE JANEIRO, November 13, 1937—1 p. m.

[Received November 13—noon.]

158. Personal for the Under Secretary. I have been in informal communication with the Catette since yesterday on the question of the President's issuing a press statement in regard to the Government's alleged Rome-Berlin tendencies, et cetera, et cetera. The President sent me word last night that he would issue this afternoon a statement to the press denying those connections, et cetera, et cetera.

CAFFERY

832.00/1092 : Telegram

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

RIO DE JANEIRO, November 13, 1937—4 p. m.

[Received 4:31 p. m.]

160. Personal for the Under Secretary. Department's telegram 74. I have just had a private confidential conversation with President

Vargas who confirmed (my 158, November 13, 1 p. m.) the message sent me last night. He said that "it is laughable to think that the Germans, Italians or Japanese had any connection whatever with the recent movement; nor had Integralistas in any way. The new constitution is in no way Integralista or Nazi or Fascist and my Government has absolutely no connection with Rome, Berlin or Tokyo." He went on at some length to explain to me the reasons for the recent *coup d'état* (along the lines set out by the Minister for Foreign Affairs in my telegram 147, November 10 but more in detail). He emphasized his desire for continuing the close and friendly relations which have existed between our two countries during these recent years.

CAFFERY

832.01/29

Memorandum by the Chief of the Division of the American Republics (Duggan) to the Legal Adviser (Hackworth)

[WASHINGTON,] January 5, 1938.

MR. HACKWORTH: In the case of the recent change of government in Brazil, before President Vargas term of office expired the Constitution was abrogated and a new Constitution proclaimed which continues him in office subject to a plebiscite at some as yet undetermined date. Inasmuch as the Department may be confronted with similar situations in other countries I would appreciate your comment with regard to the question as to whether or not the need for recognition arises under the above circumstances.

832.01/29

Memorandum by the Legal Adviser (Hackworth) to the Chief of the Division of the American Republics (Duggan)

[WASHINGTON,] January 7, 1938.

MR. DUGGAN: As I understand the situation with respect to political changes that have taken place in Brazil, no occasion arises for extending recognition to the present government. It seems to me that the question whether the abrogation of the former Constitution and the promulgation of a new one, and the continuance of President Vargas in office under the new Constitution have been brought about by appropriate processes is a matter primarily for consideration by that country and its people. The situation is not analogous to that presented where the recognized government has been ousted by a *coup d'état* or revolution and a new régime set up contrary to constitutional methods.

GREEN H. HACKWORTH

832.01/29

*Memorandum by the Chief of the Division of the American Republics
(Duggan) to the Legal Adviser (Hackworth)*

[WASHINGTON,] January 10, 1938.

MR. HACKWORTH: Summarizing, may I inquire whether the situation is that recognition, however accorded, is required in cases where a recognized government has been ousted by a *coup d'état* or revolution and a new régime set up contrary to constitutional methods; but that recognition is not required when the government itself has executed a *coup d'état*, displacing a constitution by a new one, or abrogating it altogether.

LAURENCE DUGGAN

832.01/29

*Memorandum by the Legal Adviser (Hackworth) to the Chief of the
Division of the American Republics (Duggan)*

[WASHINGTON,] January 11, 1938.

MR. DUGGAN: 1. Where a new régime is established through a *coup d'état* or revolution, some form of recognition is necessary. It may, of course, take the form of our treating with the government in the regular way or some more formal act.

2. A formal act of recognition is not required where the existing government has executed a *coup d'état* displacing the Constitution by a new one or setting it aside. If that government has already been recognized by us it will continue to be so recognized by the mere continuance of our relations with it.

GREEN H. HACKWORTH

**OPERATION OF THE TRADE AGREEMENT BETWEEN THE UNITED
STATES AND BRAZIL¹**

611.3231/1195

*Joint Statement by the Secretary of State and the Brazilian Minister
of Finance (Souza Costa)²*

WASHINGTON, July 15, 1937.

The following joint statement is made by the Secretary of State and the Minister of Finance of Brazil:

¹ For text of the trade agreement signed February 2, 1935, see Department of State Executive Agreement Series No. 82, or 49 Stat. 3808. For previous correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 300 ff.

² Issued by the Department as a press release for publication in the morning newspapers of July 16, 1937.

"The commercial agreement negotiated between the United States and Brazil was the first accord—apart from the agreement between the United States and Cuba ⁴—signed under the authority of the Trade Agreements Act.⁵ Under the Agreement each country by lowering various tariff restrictions prepared the way for an increase in trade between them. Further, by exchanging pledges against the increase in existing duties or the application of new duties on many products vital in their trade they safeguarded their existing trade.

"The specific trade concessions were no more important from a long range view, than the type of agreement that was negotiated and the type of trade policy to which the two Governments committed themselves in this Agreement. It is based on the mutual exchange of most-favored-nation pledges which guarantee that the products of each country should find opportunity in the markets of the other on terms no less favorable than the products of any other country. The underlying meaning of this pledge is a broad one; to wit, that both countries gain reciprocal assurance of both the form and substance of equality of treatment, and that the trade relations between them and the rest of the world may be enabled to develop with that protection.

"The Agreement has been operative for almost two years. It was both natural and desirable that advantage be taken by the principals of the Brazilian Mission in this country to review its past operations and its prospects. This has been done in a series of comprehensive discussions in which both countries have freely explained their position and their problems. As these conversations come to an end the two governments declare their intention of continuing the agreement in force and of bending every effort towards the attainment of its objectives. Experience has demonstrated that a number of minor complementary measures are advisable in order to safeguard its principles and benefits in view of the form of trading pursued by some other countries. Accordingly, they undertake to protect these principles and benefits against outside competition that is directly subsidized by governments.

"The high convenience was furthermore recognized of the creation of two joint Brazilian-American committees composed of representatives of the trade interests of the two countries. One will be established in Rio de Janeiro, and the other in New York or Washington, with the purpose of studying the best means indicated for developing trade between Brazil and the United States, and of securing, within the commitments mutually entered into by the Government of Brazil

⁴ Signed August 24, 1934, *Foreign Relations*, 1934, vol. v, p. 169; for correspondence, see *ibid.*, pp. 108 ff.

⁵ Approved June 12, 1934; 48 Stat. 943.

and the Government of the United States in the Commercial Agreement of February 2, 1935, the most appropriate solutions in order to overcome the obstacles which might hinder the natural development of trade between the two countries.

"These two joint committees will have independent standing, and the obligation of reporting to the two Governments. They will be guided entirely by the wish to foster trade between the two countries. The two Governments are convinced that this innovation in commercial arrangements between the two countries, suggested by the President of Brazil, will provide the basis of experience useful to them both.

"The discussion also dealt with certain minor administrative customs regulations, bearing upon the operation of the Agreement. The Brazilian mission has undertaken to give full and prompt study to certain of these regulations with a view towards simplifying or modifying them as may be found necessary. This would complete the substantial improvement of customs administration already made effective by the Brazilian Government."

**REPRESENTATIONS TO THE BRAZILIAN GOVERNMENT REGARDING
THE GERMAN-BRAZILIAN COMMERCIAL AGREEMENT***

652.6231/146

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

No. 1319

RIO DE JANEIRO, March 22, 1937.

[Received April 2.]

SIR: I have the honor to report that, during the course of a recent conversation, the general subject of which was covered in the body of the Embassy's despatch No. 1306 of March 11, 1937,¹ Dr. G. [J.] A. Barbosa Carneiro, Chief of the Commercial Section of the Brazilian Foreign Office, called my attention to the fact that the compensation agreement between Brazil and Germany² will expire in a few months, and added that the Brazilian Government is studying all phases of the matter carefully in order to decide what action should be taken upon the expiration of the agreement.

Dr. Barbosa Carneiro stated further that he had been informed by the Germans (he did not specify whether by the German Embassy or other German sources) that Aski marks were now being used by Germany in the purchase from the United States of cotton, petroleum and other commodities, with the acquiescence of the appropriate American authorities. He inquired whether this statement was true.

* Continued from *Foreign Relations*, 1936, vol. v, pp. 247-273.

¹ Not printed.

² Signed June 6, 1936; text in *Wileman's Brazilian Review*, July 13, 1936, p. 34.

I replied that I should prefer to obtain official information from the Department before answering him definitely, but that it was my impression that the Treasury Department had recently announced that the countervailing duty provisions of the United States tariff laws would not be invoked against certain classes of commercial transactions between Germany and the United States involving the use of Aski marks. I stressed the fact that any such transactions were exceptions and purely private ones between German and American individuals or companies. Dr. Barbosa Carneiro remarked that if transactions with Aski marks were permitted by the United States without penalty, this was of the highest importance to the Brazilian authorities in formulating Brazilian policy as regards trade with Germany. He requested that the Embassy furnish him with definite information concerning this subject as soon as possible. He seemed inclined to belittle the difference between private Aski mark or barter transactions and those sponsored by direct bilateral negotiations between two governments, such as the existing Brazilian-German trade agreement.

I based my statement to Dr. Barbosa Carneiro with regard to the nature of Aski mark transactions between the United States and Germany on the summary of the Treasury Department announcement regarding "German Mark Transactions" contained in the Department's radio bulletin No. 303 of December 24, 1936. The item under the heading "German-American Trading Company", contained in the Department's radio bulletin No. 63 of March 18, 1937, would seem to indicate that active advantage is being taken of the privileges set forth in the Treasury Department's announcement, and that they may even have been extended, since it is the Embassy's understanding that that announcement referred to operations of single American parties with German exporters, without the intervention of third parties, whereas the Continental Export and Import Corporation, mentioned in the item in the later radio bulletin, with its small capitalization, would appear to be more or less of a "middleman" organization.

As the Department is, of course, aware, this Embassy earlier consistently advanced the view in its dealings with the Brazilian authorities that the American Government, as a matter of principle, deplored clearing and compensation agreements and the use of depreciated currencies in international trade as tending to counteract the beneficial effects of its trade agreement policy and its unceasing efforts directed toward the lowering of trade barriers throughout the world. The Embassy pointed out that countervailing duties had been put into effect in the United States on certain imports from Germany because of discrimination by the latter against United States trade involving the subsidizing of German exports by use of the controlled mark sys-

tem. The fact that such practices were penalized by the United States of course made our position relatively strong in arguing with the Brazilian authorities on a matter of principle.

While the general argument is still valid that the entrance by the Government of Brazil into clearing and compensation agreements with other countries goes counter to the intent of the Brazilian-American Trade Agreement⁹ of stimulating commercial relations between the two countries, and is not in accord with the principles embodied in the Resolution on Economic, Commercial and Tariff Policies, approved on December 16, 1933, by the Seventh International Conference of American States, at Montevideo,¹⁰ it would be of great assistance to the Embassy if the Department could promptly furnish it with any available information and arguments calculated to combat the apparent inclination of the Brazilian authorities to consider that the use of Aski marks under recent Treasury Department regulations is analogous to their use under the Brazilian-German trade agreement.¹¹

Respectfully yours,

R. M. SCOTTEN

632.6231/147 : Telegram

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

RIO DE JANEIRO, April 6, 1937—11 a. m.

[Received 3 : 42 p. m.]

31. For Assistant Secretary Welles. In conversation yesterday with the Acting Minister for Foreign Affairs¹² the latter informed me that he is urging very strongly upon the President of the Republic the desirability of Brazil not renewing the Brazilian-German compensation arrangement which expires on July 31st next.

As the Department is doubtless aware the Acting Minister for Foreign Affairs was consistently opposed to the consummation by Brazil of the compensation arrangement with Germany and I believe that he will sincerely do what he can to prevent the renewal of the arrangement. However since he is lacking in political influence I am not sure that his views will have much weight with the President unless we can do something to strengthen his hand. For this reason I venture to suggest that the Department send him in whatever way seems most

⁹ Reciprocal trade agreement signed February 2, 1935; for text, see Department of State Executive Agreement Series No. 82, or 49 Stat. 3808; see also *Foreign Relations*, 1935, vol. iv, pp. 300 ff.

¹⁰ Department of State Conference Series No. 19: *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.

¹¹ Provisional commercial agreement by exchange of notes signed June 8, 1936; for text of notes, see telegram No. 152, June 10, 1936, 1 p. m., from the Ambassador in Brazil, *Foreign Relations*, 1936, vol. v, p. 269.

¹² Mario de Pimentel Brandão.

practicable a carefully prepared message recalling Mr. Welles' conversations with the President and the Ministry of Finance during his visit to Rio de Janeiro and again setting forth in general terms our objections to the Brazilian-German arrangement; stating that we are convinced that the operation of this arrangement which has been in effect now for nearly one year has in fact been harmful to our trade and has practically nullified any benefits which we might have received from the Brazilian-American trade agreement and expressing the hope that Brazil will see fit to allow the arrangement to lapse upon its expiration. I do not think such a message should carry any reference to my conversation yesterday with the Acting Minister of Foreign Affairs. I feel that if the Acting Minister of Foreign Affairs could receive such a private advice at this time signed by the Secretary of State or Mr. Welles which he could show to the President it would lend great weight to his arguments and might prove the deciding factor in persuading the President to allow the agreement to lapse.

SCOTTEN

632.6231/150 : Telegram

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

RIO DE JANEIRO, April 23, 1937—noon.

[Received April 23—11:30 a. m.]

37. The Acting Minister for Foreign Affairs requested me to call on him yesterday afternoon. He explained that he had been having frequent talks with the President of the Republic¹³ regarding the Brazilian-German compensation arrangement and that action regarding its renewal or denouncement has to be taken by June 6th as it was signed on June 6th of last year. He added that the President shares his views that Brazil must cooperate more closely with the United States on trade matters and that the President is practically convinced of the desirability of not renewing the agreement with Germany. However he added that he could not say as much for the Minister of Finance¹⁴ who, although willing to meet specific objections on the part of the United States, nevertheless looks at this subject from a realistic point of view and believes that the German market is too important for Brazil to lose and that there is only one basis of dealing with Germany at the present time, namely compensation. The Minister of Finance had informed him that he would not be able to discuss this question in detail until May 3rd as he is too busy at the present time with budgetary and other matters. However, he requested the Acting Minister for Foreign Affairs to obtain

¹³ Getulio Vargas.

¹⁴ Arthur de Souza Costa.

from the American Embassy a full report voicing American objections to the operation of the Brazilian-German agreement and what we consider to be its effect upon the operation of the Brazilian-American treaty. The Acting Minister for Foreign Affairs added that in his conversations with the Minister of Finance he would use such a report or not, depending upon the tactics of the Minister of Finance. Should the latter, when he comes to grips with this question, be willing to discuss it on the general principle of Brazilian-American relations it might not be necessary for the Acting Minister of Foreign Affairs to use such a report. However, if, as he expects, the Minister of Finance calls for our definite objections with figures to support the same, it would be most helpful for him to have this report at hand.

The Acting Minister for Foreign Affairs added that the local representative of J. Henry Schroeder Banking Corporation has been bombarding the Minister of Finance and the Federal Foreign Trade Council with clippings from English and American newspapers tending to show that commercial deals in compensation marks between German and American firms are being permitted by the American Government and that this was having its effect upon the Minister of Finance.

I recalled the conversations which Mr. Welles¹⁵ had with the Minister of Finance on December 30th at which time the Minister of Finance requested a list of the principal American commodities to be affected by the German compensation trade and explained that a partial list had been made in the Embassy and that Mr. Welles had actually presented it to the Minister of Finance.

I hesitate to take any action upon the request of the Acting Minister for Foreign Affairs without specific instructions from the Department especially as no reply has been received to the Embassy's despatch No. 1319 of March 22nd or telegram No. 31 of April 6, 11 a. m.

I feel that if the Department is still convinced of the desirability of Brazil withdrawing from the compensation arrangement with Germany the time to strike has arrived and that the Department should spare no effort to give the Acting Minister for Foreign Affairs the material and arguments which he desires in the form suggested in the Embassy's telegram No. 31, April 6, 11 a. m. The Embassy could supplement such a message with full statistical information which it has now obtained from official Brazilian sources in compli-

¹⁵ Assistant Secretary of State Sumner Welles was a delegate to the Inter-American Conference at Buenos Aires and stopped in Rio de Janeiro on the way back to the United States.

ance with the Department's instruction No. 581 of September 28, 1936.¹⁶

SCOTTEN

632.6231/150

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

No. 683

WASHINGTON, May 12, 1937.

SIR: The Department acknowledges the receipt of your telegram No. 37, of April 23, noon, reporting that the Acting Minister of Foreign Affairs has asked the views of this Government with respect to the renewal of the Brazilian-German Compensation Arrangement.

Please say to the Acting Minister for Foreign Affairs that this Government appreciates his request for its views in connection with the renewal of the Brazilian-German Compensation Agreement. This Government believes the cause of liberal commercial policy which both Governments desire to promote is greatly strengthened by such consultation and cooperation.

At the outset this Government desires again to emphasize that it does not seek special protection for American exports from any ordinary competition. The trade agreement between the United States and Brazil is predicated upon and depends for its full validity upon the conduct of trade with all countries on regular lines of economic interchange. The United States in no way wishes to seek a limitation of German-Brazilian trade so long as it is based on these principles and does not subject the trade of other countries such as the United States to exceptional and uneconomic competition. On the contrary, it welcomes the expansion of Brazilian commerce with other countries on a sound economic basis and accordingly hopes that Brazil will endeavor to conclude a trade agreement with Germany based on the liberal principles which Brazil and this Government desire to pursue.

This Government has from time to time in recent months brought to the attention of the Brazilian Government the competitive disadvantages to which American trade is subjected by the type of compensation arrangement that has been in force between Brazil and Germany. It has forced a displacement of the trade of the United States and other countries in Brazil, placing at a disadvantage those countries which have arranged their trade relations with Brazil on liberal lines. This result, which tends to follow from the use of blocked currencies which stimulates trade diversion, has been greatly

¹⁶ Not printed.

accentuated by the arbitrary system employed by Germany with respect to its exports which disorganizes and renders almost completely uncertain the competition with which American exporters find themselves faced.

As a result of conversations held between officers of the two Governments in Rio in December 1936, the United States Government felt that it had reason to hope that the Brazilian Government felt that its own best interests would be served by the elimination of the artificial and illiberal elements in its trade relations with Germany.

The forthcoming negotiations offer the opportunity of establishing trade relations with Germany along the sound and advantageous lines of liberal policy which have not yet been realized.

By the liberal customs treatment accorded to Brazilian products, Brazil has been enabled to maintain a large and needed export balance with the steadily expanding American market. If, however, American trade continues to be displaced by special and compensated trade, it is plain that the trade agreement with Brazil, assuring the continuance of this liberal treatment, will incur continued criticism in the United States.

The United States Government has taken action which has resulted in the elimination of these arbitrary elements in its trade with Germany. On June 4, 1936, the Treasury Department of this Government held that export bounties or grants were being paid by the German Government on certain articles of export and that importations of such articles in this country were therefore subject to the countervailing duties prescribed in Section 303 of the Tariff Act of 1930.¹⁷

As a result of this act the German Government agreed that after August 2, 1936,¹⁸ it would take measures to insure that no scrip or bond procedure would be allowed, no public or private bounty or subsidy would be paid, and that the use of no German currency other than free gold exchange marks or inland marks would be permitted in connection with direct or indirect exports of German merchandise to the United States.

Recognizing that when normal exchange facilities are restricted there may be some justification for private barter transactions, the position of the Treasury Department above cited has been held not to apply to certain types of such transactions carried through directly by the original shipper of American products to Germany provided no subsidy or price discount is allowed upon the German exports.

¹⁷ 46 Stat. 590, 687.

¹⁸ See *Foreign Relations*, 1936, vol. II, pp. 210 ff.

It is to be noted that Germany does not apply the principle of compensation and does not use blocked marks in its trade with Panama, Cuba, the Philippine Islands, China, Siam, Egypt, the Sudan, British India, and the Straits Settlements.

The fact that in its trade with this and other countries Germany has made exceptions to its regime of compensation trade through the use of blocked marks in payment for German imports and to its practice of paying export bounties leads this Government to make the suggestion that, in place of the present arrangement between Germany and Brazil, there be concluded a trade agreement on liberal lines, providing for merchandise payments in free currencies including reciprocal reductions of tariffs and quantitative restrictions, and especially providing for the elimination of blocked mark and subsidy procedures. This Government understands that the reason invoked for Germany's policy of compensation trade is the lack of foreign exchange with which to make needed purchases abroad. It would seem that this situation does not obtain as regards commerce between Brazil and Germany since quite apart from such gains as may be due to the system of direct export subsidies there appears to be a regular and apparently substantial demand for German products in Brazil.

It is recognized that the Brazilian Government would probably desire to supplement such an agreement with specific undertakings by Germany as to the treatment to be accorded to Brazilian goods under quota and exchange arrangements if it proved impossible to secure an agreement from Germany that no exchange or quantitative restrictions would be imposed on imports from Brazil. In view of the balance of trade between the two countries, this should not prove difficult to obtain.

Further, it is felt that both in its own permanent trade interests and in behalf of the maintenance of equitable competitive conditions in Brazil for the trade of all countries, the Brazilian Government should in such a trade agreement seek to discourage subsidized imports, particularly in those lines which are customarily supplied to Brazil by other countries. One method of accomplishing this would be to obtain, as did the United States for its imports, a promise by Germany not to employ its various subsidy procedures on exports to Brazil. Another method would be the imposition of additional duties on subsidized goods in amounts sufficient to offset the subsidies paid or bestowed. Restrictions upon subsidized imports do not prevent private compensation arrangements upon such terms as may be mutually satisfactory but they do assure that there will be less arbitrary interference by governments with the terms of individual trade trans-

actions and that international trade will tend to move more in accord with the lines of natural economic advantage.

Such a trade agreement including reciprocal reductions of tariff barriers tending to expand trade between the two countries would, in the opinion of this Government, not only be of advantage to both Germany and Brazil, but of decisive effect in the efforts being made to improve international trade and relations.

You may leave with the Acting Minister of Foreign Affairs an *aide-mémoire* of the preceding observations with respect to the renewal of the Brazilian-German Agreement.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

632.6231/161 : Telegram

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

RIO DE JANEIRO, May 27, 1937—6 p. m.
[Received 6:35 p. m.]

54. In a conversation this afternoon with the Acting Minister of Foreign Affairs he informed me that the reaction both of himself and the President to the *aide-mémoire* outlined in the Department's instruction 691 [683], May 12 and which I left with him on May 22 was extremely favorable. He added that a committee had been set up under his direction to study the whole question and that he had also left a copy with the Minister of Finance but he was not in a position to report the latter's reaction to it yet. He showed me telegrams from the Brazilian Embassy in Berlin indicating that Germany is worried about the Brazilian situation and is bringing pressure to bear and offering inducements such as increased purchases of tobacco from Rio Grande do Sul in order to bring the Brazilians into line. Although the attitude of the Acting Minister for Foreign Affairs was encouraging he did not comment upon any of the specific recommendations embodied in the *aide-mémoire* and I think it entirely premature to jump to the conclusion that this favorable attitude will be translated into action along the lines we desire. In fact in a conversation yesterday between the Commercial Attaché and the Chief of the Commercial Section of the Foreign Office the latter who had been studying the *aide-mémoire* advanced certain suggestions which are not yet it is true very concrete but which would entirely fail to meet our views. He also stated that he anticipated considerable opposition from the Minister of Finance and the Exchange Director of the Bank of Brazil to any change in the existing Brazilian-German arrangement. I feel it should be emphasized that the two officials last mentioned have more influence than the Acting Minister for Foreign Affairs.

SCOTTEN

632.6231/163 : Telegram

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

RIO DE JANEIRO, June 1, 1937—1 p. m.

[Received 1:55 p. m.]

56. As a result of conversations between Boucas¹⁹ and myself this morning and between the Commercial Attaché²⁰ and the Chief of the Commercial Section of the Foreign Office²¹ during the weekend, I am very pessimistic as to any action being taken by Brazil along the lines suggested in the *aide-mémoire*. From these conversations it appears that the tremendous pressure which has been brought to bear upon the Minister of Finance and the members of the committee set up to study this question, both from German sources and from Brazilian importers and exporters themselves has had its effect. Boucas stated that the Minister of Finance with whom he has just talked is extremely unfavorable to the *aide-mémoire* and that he will have the deciding voice in this question no matter what the attitude of the Foreign Office may be. Furthermore, in Boucas' opinion the committee, with the exception of the Foreign Office member, is opposed to our views. The Chief of the Commercial Section of the Foreign Office seemed entirely disposed to attempt to evolve a plan which would meet our views but frankly stated that as yet none had occurred to him which he felt he could induce the opposition to accept nor did he think the suggestions in the *aide-mémoire* practicable.

At the request of the Minister of Finance the American Chamber of Commerce is preparing a memorandum which will embody the views of American businessmen.

Our views set forth in the *aide-mémoire* are so clearly expressed that it is difficult for me to make any constructive suggestion to the Department with a view to overcoming the apparent opposition which exists here excepting perhaps a direct appeal to the President.

SCOTTEN

632.6231/164 : Telegram

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

RIO DE JANEIRO, June 4, 1937—noon.

[Received 2:45 p. m.]

59. Embassy's telegram 56, June 1, 1 p. m. I called last night at his request upon the Minister of Finance accompanied by Boucas. The Minister informed me that he had received a memorandum from the American Chamber of Commerce as well as our *aide-mémoire* on

¹⁹ Valentim F. Bouças, member of the Brazilian Federal Foreign Trade Council and Special Technical Adviser to the Minister of Finance.

²⁰ Ralph H. Ackerman.

²¹ J. A. Barbosa Carneiro.

the trade arrangement with Germany and that the British had likewise made representations about this subject. As a result of these representations he explained that the German Government was being notified that the present Brazilian-German compensation arrangement would be extended for a period of 3 months during which studies would be made with a view to analyzing our objections. I asked him if this was equivalent to a denouncement of the present arrangement and he said emphatically that it was not; that he saw no reason to denounce the present arrangement. He then added that he felt Brazil must continue to deal with Germany in compensation marks although during the course of the studies about to be undertaken he would attempt to evolve some plan to eliminate "subsidized imports". I explained that as I understood the situation with respect to Brazil, subsidies on many German exports were granted through the operation of the compensation marks system itself. He thereupon showed me photostat copies of private barter arrangements for the German and American firms which had evidently been furnished him from the source mentioned in the Embassy's previous telegrams. I explained that these transactions were not made with the compensation mark but were merely barter arrangements and that no price discount or subsidy was involved. The Minister apparently had no conception of this difference and he asked me to secure for him a technical exposé of the system as operated in the United States at the present time. I called his attention to the explanation regarding this point contained in the *aide-mémoire* but he asked me to obtain a full exposé regarding it and I trust the Department will furnish it without delay as I am convinced the Minister of Finance is entirely confused regarding this matter.

He then asked me to see the Acting Minister for Foreign Affairs which I did. The Acting Minister for Foreign Affairs confirmed what the Minister of Finance had told me regarding the prolongation for 3 months of the arrangement and stated that the Minister of Finance had desired to prolong it for 1 year and that it was cut down to 3 months only upon the insistence of the Foreign Office. I stated that I was greatly discouraged as the result of my conversation with the Minister of Finance in view of the statement he had made that Brazil must continue with the compensation mark system.

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In view of the two conversations reported above I believe our case to be hopeless unless we are willing to use pressure. However, in order to dispel the confusion which apparently exists in the mind of the Minister of Finance I venture to reiterate my request that the Department furnish the Embassy with as complete information as possible as to the actual mechanics of the present barter arrangements

which are now permitted between American and German firms (see Embassy's despatch 1319, March 22nd) and also full information concerning the exact operation of the "subsidy or price discount system" existing in Germany.

SCOTTEN

632.6231/165 : Telegram

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

RIO DE JANEIRO, June 4, 1937—4 p. m.

[Received 10:43 p. m.]

60. Embassy's telegram 59. Subsequent to the conversations reported in the telegram under reference Boucas telephoned me and asked my impression of the conversation with the Minister of Finance. I replied that I was extremely disappointed with that conversation. I did this designedly both because it was true [apparent omission] I was convinced that my remarks would be repeated by Boucas to the Minister of Finance.

This afternoon Acting Minister of Foreign Affairs asked me to see him. He stated that Boucas had in fact repeated my impressions to the Minister of Finance and that this had had a most "salutary effect". He added that apparently the Minister of Finance has at last awakened to the realization that he must give this question serious consideration and study. He added that the Minister of Finance had had a long conversation by telephone with Aranha²² last night and the two had had a heated discussion, Aranha urging that the Minister of Finance do something along the lines we suggested, et cetera. The net result is that the Acting Minister of Foreign Affairs is somewhat more hopeful than yesterday but he urged us in all earnestness to adopt a firm attitude as he felt that the Minister of Finance had until now been seeking not to meet our views but a way to avoid meeting them. This afternoon Boucas informed me that in the telephone conversation last evening between Aranha and the Minister the former urged the latter to come to the United States this month. The Minister is apparently toying with the idea. I feel that it would be an excellent step were the Minister to go to Washington as it would remove him from the insidious influences to which he is especially susceptible and which are working here against American and in favor of German interests and would enable us to present our point of view more forcibly and more fully than can be done here. . . . I feel further that in any event pressure for a favorable decision on the compensation mark question should be exerted unrelentingly and

²² Oswaldo Aranha, Brazilian Ambassador to the United States.

that he should under no circumstances be allowed to use the 3 months period merely to put off consideration of the question.

SCOTTEN

632.6231/168

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

[WASHINGTON,] June 4, 1937.

The Brazilian Ambassador called to see me to advise me of a telephone conversation which he had had yesterday with his own Minister of Finance and with regard to another conversation which he intended having with him early this afternoon. The Ambassador had been informed that, due to the insistence of President Vargas, the existing commercial agreement between Germany and Brazil had been denounced within the past three days by the Brazilian Government and Germany had been notified that, at the expiration of the ninety-day denunciation period, the treaty would not be renewed.

The Ambassador had been told by the Minister of Finance that there would now appear to be two alternatives as to the policy to be pursued by Brazil: (1) to attempt, during these coming three months, to work out an understanding with Germany which would result in the elimination of all the objectionable articles in the existing agreement, particularly those which were proving detrimental to American trade interests, and then negotiate a new agreement with Germany in this revised form, which will amount to little more than giving Germany a continuation of the most-favored-nation treatment; (2) to abandon the new agreement with Germany entirely.

The Ambassador said that he would like to discuss the questions raised by the first alternative with this Government during the coming weeks, and I said I would be very happy to do so. He asked particularly if we would instruct our own Embassy in Rio to make immediate representations to the Minister of Finance, not based so much on the material loss caused to the commercial interests of the United States by the conditions arising as a result of the present German-Brazilian agreement, but more on the political and moral side, namely, that we had first negotiated a trade agreement with Brazil under this Administration, that we had looked to Brazil to support our liberal trade policy in the rest of the world, and that the Brazilian Government, while undoubtedly animated by the best disposition and the most friendly spirit, had nevertheless on repeated occasions let us down because, due to certain temporary exigencies, special agreements with Germany and Italy²³ had seemed momentarily advantageous. I told the Ambassador that we would be happy to do so.

²³ See *Foreign Relations*, 1936, vol. v, pp. 247 ff.

I then took occasion to ask the Ambassador to read the *aide-mémoire*²⁴ calling the attention of the Brazilian Government to the clearing arrangement between Italy and Brazil effected by an agreement signed by the Bank of Brazil and the Italian National Institute for Exchange Abroad on February 15, 1937. I said that it was clear that the agreement referred to was in very definite contravention of the assurances officially given us by the Brazilian Government on July 17²⁵ and on August 7,²⁶ last. The Ambassador was emphatic in assuring me that no general agreement had been entered into; that he had happened to be in Rio on February 15 and that he had been informed on that day that this agreement envisaged solely the purchase by Brazil of three Italian submarines and the method of providing compensation therefor. At my request, he said, however, that he would ask full information and advise me accordingly.

I then asked the Ambassador if he had any further word on the Central Bank proposal, and he said that he would talk about this matter with the Minister of Finance by telephone this afternoon and advise me of the intentions of his Government.

I advised the Ambassador of the President's approval of the proposed contract for the leasing of United States destroyers to Brazil²⁷ and stated that, as soon as the three points concerning which the Navy Department and this Department were still in disaccord were agreed upon, which I hoped would be in the immediate future, I would advise him accordingly.

S[UMNER] W[ELLES]

632.6231/167: Telegram

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

RIO DE JANEIRO, June 8, 1937—11 a. m.
[Received June 8—10:35 a. m.]

61. Embassy's 60, June 4, 7 [4] p. m. Boucas informed me this morning that the Minister of Finance, accompanied by Boucas, Senhor Barbosa Carneiro, the Chief of the Commercial Section of the Foreign Office, as well as by a representative of the Bank of Brazil and another official of the Ministry of Finance, is planning to leave Rio de Janeiro by air on June 14th for Miami en route to Washington. According to Boucas this mission will discuss not only the Brazilian-German compensation arrangement but the foreign debt²⁸ and the stabilization

²⁴ Not printed.

²⁵ See telegram No. 167, July 17, 1936, 5 p. m., from the Ambassador in Brazil, *Foreign Relations*, 1936, vol. v, p. 273.

²⁶ See telegram No. 179, August 8, 1936, 11 a. m., from the Ambassador in Brazil, *ibid.*, p. 280.

²⁷ See pp. 149 ff.

²⁸ See pp. 350 ff.

question. The Embassy will telegraph further details as soon as they can be obtained officially but Boucas requested that the information given above be considered as confidential pending an official announcement.

SCOTTEN

632.6231/167 : Telegram

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

WASHINGTON, June 9, 1937—3 p. m.

36. Your 59, June 4, noon; 60, June 4, 4 p. m.; and 61, June 8, 11 a. m. Aranha has communicated to me the statements made to him by telephone by the Minister of Finance which would appear to be completely at variance with the statements which the latter made to you. Aranha has likewise shown to me the personal letter he has sent to President Vargas which conveys very fully and emphatically the point of view of this Government.

In view of the evident confusion which exists, the visit here of the Minister of Finance and of his associates will undoubtedly be highly beneficial. When an appropriate opportunity presents itself, please advise the Minister of Finance of the pleasure it will give the officials of this Government to receive him when he visits Washington and that, of course, we will all be happy to cooperate with him in every possible way to the common advantage of our two countries.

HULL

632.6231/169 : Telegram

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

RIO DE JANEIRO, June 10, 1937—6 p. m.

[Received June 10—5:55 p. m.]

64. Embassy's 61, June 8, 11 a. m. Arthur de Souza Costa, Minister of Finance accompanied by following individuals will leave by air on June 14, arriving Miami June 17: J. A. Barboza Carneiro, Chief Commercial Section of the Foreign Office; Valentim F. Boucas, member of the Federal Foreign Trade Council; Aloysio de Lima Campos and Olivier Luiz Teixeira, officials of the Bank of Brazil. Daniel Martins, messenger.

Claudionor de Souza Lopes, Treasury official and Consul Jorge Cabral, also members of the mission, are leaving for New York by *Northern Prince* tomorrow.

SCOTTEN

611.3231/1176 : Telegram

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

RIO DE JANEIRO, June 16, 1937—1 p. m.
[Received 1:35 p. m.]

67. For the Under Secretary. In a conversation with the Minister for Foreign Affairs ²⁹ last night the latter informed me of the receipt by the President of a letter from Aranha reporting a conversation with Mr. Welles and stating that the latter had taken a firm stand and had called Aranha's attention to the preferential treatment given by Argentina to the British, although Great Britain did not accord to Argentina the same favorable treatment which the United States extended to Brazil and that Mr. Welles felt that on account of the political relations between the United States and Brazil the latter should be willing to extend better treatment to the United States than is accorded at present. The letter mentioned above is probably the one referred to in the Department's 36.

The Minister for Foreign Affairs added that he considered Mr. Welles to be "absolutely right" in his stand and that just before the Minister of Finance departed he, the Minister for Foreign Affairs, had again endeavored to impress upon him that because of the political relations between the two countries he should be willing to waive the immediate material benefits which Brazil derived from the present arrangement with Germany. He added that Souza Costa had replied that the political side of the question did not interest him and that he was only interested in the material side. He then added that he was convinced that the attitude of the Minister of Finance in the forthcoming negotiations in Washington would depend largely upon the degree of firmness with which he was treated by the State Department. He said that he was convinced Souza Costa would endeavor in every way to secure our consent to a renewal of the agreement with Germany with possibly some slight concessions to us. He felt that if our stand was firm, however, Brazil would do away with this agreement.

SCOTTEN

632.6231/174 : Telegram

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

RIO DE JANEIRO, June 17, 1937—1 p. m.
[Received June 17—11:35 a. m.]

70. My telegram No. 59, June 4, noon. The Brazilian-German compensation arrangement was officially extended for a period of 3

²⁹ Mario de Pimentel Brandão, Acting Minister for Foreign Affairs.

months by notes exchanged yesterday between the Minister of Foreign Affairs and the German Ambassador.

SCOTTEN

632.6231/181

Memorandum of Conversation, by the Secretary of State

[WASHINGTON,] June 19, 1937.

The Ambassador of Brazil came in and presented the Brazilian Minister of Finance, Mr. Arthur de Souza Costa, Mr. Boucas and Mr. Barbosa Carneiro. They called primarily to pay their respects and, incidentally, to indicate to me that the chief purpose of their trip was simply to clear up the slightest misapprehensions or misunderstandings in connection with the carrying forward of the broad general economic program. I expressed much gratification at this and at the disposition of the Brazilian Government to do full teamwork with us in support of this program. I said that the fact that they had come this distance in order to clarify any phase of the movement which might obstruct the fullest measure of teamwork between the two countries was a sufficient assurance that Brazil would do her full part. I then elaborated on the usual viewpoints which most strongly support our program and make it most appealing, both from the broad and the narrower standpoint, to countries like Brazil.

C[ORDELL] H[ULL]

611.3231/1197

The Brazilian Ambassador (Aranha) to the Secretary of State

[Translation]

No. 68/890.(42) (22)

WASHINGTON, July 14, 1937.

MR. SECRETARY OF STATE: I have the honor to bring to Your Excellency's knowledge the conclusions reached in the course of recent discussions of questions arising in connection with the execution of the Trade Agreement of February 2, 1935, between our two countries. These questions have been the subject of several conferences participated in by myself, the Minister of Finance of Brazil, Mr. Arthur de Souza Costa and the Chief of the Commercial Service of the Ministry of Foreign Affairs, Mr. J. A. Barboza Carneiro, not only with Your Excellency but also with various other officials of the Department of State.

2. In the course of these conferences it was made perfectly clear that the Brazilian Government, like the Government of the United States, keenly desires that the aforesaid Agreement of February 2, 1935, shall continue to be fully executed both in letter and in spirit.

3. The situation presented by the conduct of international trade in compensation currencies was carefully examined, and it was made clear that the Brazilian Government keenly desires that its import trade shall rest upon the basis of fair competition. Having regard to this, my Government will use every effort to assure that those goods imported into Brazil which may compete with the American products covered by our Trade Agreement shall not be favored by any direct subsidy from the Government of exporting countries.

4. In correspondence with its belief that international trade will develop most substantially and with the greatest economic and other benefits on the basis of equality and through the medium of free currencies, the Brazilian Government made it clear that it regards trade through compensation currencies as being a contingency which it desires to discourage as soon as may be possible. In view of this, the Brazilian Government intends that trade through compensating procedures, being susceptible of creating a situation which introduces difficulty into the trade with countries having a regime of currency of free international circulation, should be so regulated as to prevent the dislocation of trade with the countries carried out in free currencies and on a basis of equality. This would serve to maintain the effectiveness of commercial agreements based on the principle of equality of opportunity.

5. Furthermore, it was recognized to be highly desirable to create 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, 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.

I take the occasion [etc.]

OSWALDO ARANHA

611.3231/1197

The Secretary of State to the Brazilian Ambassador (Aranha)

WASHINGTON, July 31, 1937.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of July 14, 1937, in which you recite the conclusions reached in the course of recent discussions of questions arising in connection with the execution of the Trade Agreement of February 2,

1935, between our two countries. These questions were examined in several conferences participated in by Your Excellency, the Minister of Finance of Brazil, Mr. Arthur de Souza Costa and the Chief of the Commercial Service of the Ministry of Foreign Affairs, Mr. J. A. Barboza Carneiro, various officials of the Department of State and myself.

The agreements reached and the undertakings decided upon in these conferences, which you confirm in your note under acknowledgment, are very gratifying to this Government.

This Government notes with pleasure, in paragraph 2 of your note, that the Brazilian Government, like the Government of the United States, keenly desires that the aforesaid Agreement of February 2, 1935, shall continue to be fully executed both in letter and spirit.

With reference to the situation presented by the conduct of international trade in compensation currencies which was carefully examined in the course of the recent conferences, this Government welcomes Your Excellency's statement that the Brazilian Government keenly desires that its import trade shall rest upon the basis of fair competition, and Your Excellency's assurance that the Brazilian Government will use every effort to assure that those goods imported into Brazil which may compete with the American products covered by our Trade Agreement shall not be favored by any direct subsidy from the Government of exporting countries.

My Government also notes that the Brazilian Government, in accordance with its belief that international trade will develop most substantially and with the greatest economic and other benefits on the basis of equality and through the medium of free currencies, regards trade through compensation currencies as being a contingency which it desires to discourage. My Government is in full agreement with this belief and policy and accordingly notes with gratification the assurance in Your Excellency's note that the Brazilian Government intends that trade through compensation procedures, being susceptible of creating a situation which introduces difficulty into the trade with countries having a regime of currency of free international circulation, should be so regulated as to prevent the dislocation of trade with the countries carried out in free currencies and on a basis of equality. It shares Your Excellency's opinion that this action would serve to maintain the effectiveness of commercial agreements based on the principle of equality of opportunity.

In connection with the foregoing undertakings of Your Excellency's Government, I wish to repeat the statements made during the conferences of which Your Excellency's note recites the conclusions, that this Government does not seek special protection for American exports to Brazil from any fair competition, nor is it advocating a limita-

tion of such trade as remains open to the competition of all countries, including the United States, on a basis of equal opportunity. The execution of these undertakings of Your Excellency's Government will serve to bring about these conditions of equality of commercial opportunity and fair competition on the Brazilian market, and will, it is believed, be of advantage not only to the commercial relations of the United States and Brazil but of real and permanent advantage to Brazil and to all countries trading with Brazil.

As Your Excellency states, it was recognized during the conferences that it would be highly desirable to create 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, 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 conclusion, I desire to express the satisfaction of this Government at the opportunity afforded to consult with respect to the economic relations of our two countries with the high officials of the Brazilian Government composing the financial commission. The frankness and sympathetic understanding of this Government's viewpoint which Your Excellency and the members of the commission brought to the discussions, were greatly appreciated.

Accept [etc.]

CORDELL HULL

632.6231/236 : Telegram

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

RIO DE JANEIRO, August 31, 1937—1 p. m.

[Received 2:11 p. m.]

112. The Minister for Foreign Affairs³⁰ last evening spoke to me about the termination of the German agreement on September 5 and said that the Minister of Finance desires to replace the provisional agreement by a definite arrangement for a period of one year. This arrangement would differ from the previous one in that the amounts of coffee and cotton which Brazil may export to Germany, receiving

³⁰ Mario de Pimentel Brandão, who had been Acting Minister for Foreign Affairs since January 1937, was appointed Minister for Foreign Affairs by presidential decree of September 1, 1937.

payment in compensation marks, would be limited not only by volume but by value. The Minister of Finance does not consider it necessary to include any other commodities in the treaty, because the other Brazilian exports to Germany are negligible (and also because he desires to avoid whenever possible domestic political opposition).

The Minister for Foreign Affairs then said that he does not agree with this but believes that the arrangement should be extended for a period of only 6 months, limiting coffee and cotton exports as proposed by the Minister of Finance, and during the 6 months period draw up a schedule of all the other Brazilian exports to Germany with a view to making at the end of the 6 months period a definite schedule of all Brazilian exports to Germany, limiting the same both as to volume and value.

(As the Department is aware, although amounts were fixed in the last arrangement with Germany, valuation was not included and during the period of 12 months the value of the exports rose greatly, although the volume did not, resulting, of course, in a marked increase in the quantity of bloc marks in the Banco do Brazil.)

I told the Minister for Foreign Affairs that I would endeavor to ascertain immediately the Department's opinion. (Having in mind the prominence hitherto played by the Brazilian Ambassador at Washington in these negotiations, it is my opinion that it will be well to obtain his views). I invited attention to the promise in the Aranha letter of July 14 to the Department to protect our commodities against subsidized imports from Germany. The Foreign Office assured me that an article will be included in whatever arrangement is made to take care of this.

As the Embassy has frequently pointed out of late (and this was emphasized yesterday at the Foreign Office), the Germans are bringing all possible pressure upon the Minister of Finance to extend the previous arrangement for a 12 months period with no limitations whatsoever. (I emphasize that the present arrangement expires on September 5 next).

CAFFERY

632.6231/236 : Telegram

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

WASHINGTON, September 2, 1937—6 p. m.

51. Your 112, August 31, 1 p. m. The Department does not care to comment directly on specific details of a German-Brazilian commercial agreement. When the Brazilian mission was here, common understanding was firmly established that this Government does not seek in any way a limitation of trade between Brazil and Germany

which is conducted on lines of sound and normal economic competition; that Brazil, no less than the United States, will seek to discourage and restrict, so far as possible, the various arbitrary trade control devices; and that it will, on a non-preferential basis, endeavor to safeguard the principles and benefits of the trade agreement with the United States. The particular means of achieving these objectives are properly matters for the decision of Brazilian authorities. Within these limits the following comments of a general nature seem pertinent.

1. The Department places the utmost importance upon the assurance conveyed to you by the Foreign Office that an article will be included in whatever arrangement is concluded to take care of the problem of German subsidization. Whatever the type of action envisaged, the Department trusts that it will be both specific and comprehensive.

2. This Government does not feel that it should discuss the details of the measures to be taken to regulate compensation trading. Whether the desired regulations should be effected by export quotas or by some other method is a matter for the Brazilian Government to determine. Presumably the objective of restriction of trade in compensation currencies would be the prevention of the accumulation of blocked currencies to an extent which would tend artificially to stimulate imports from the country in which payments are blocked in order to liquidate blocked balances or to forestall further accumulation.

This Government anticipates, however, that whatever measures are decided upon, the proposed agreement with Germany will be so framed as to enable Brazil fully to comply with the assurance given in the note from the Brazilian Ambassador of July 15 [14], namely: ". . . the Brazilian Government intends that trade through compensating procedures, being susceptible of creating a situation which introduces difficulty into the trade with countries having a regime of currency of free international circulation, should be so regulated as to prevent the dislocation of trade with the countries carried out in free currencies and on a basis of equality."

3. In view of the continuing upward trend in international trade and in world prices, it is to be hoped that the world may witness a steady decline in those devices, such as compensation arrangements, quotas, etc., which have been defended on grounds of necessity. For this reason, a short period for an arrangement embodying such devices, even though for the purpose of limiting them, would afford an earlier opportunity for again examining its operation with a view to determining whether a further advance may not be made toward more liberal and normal trade relations. This Government again wishes to express to the Government of Brazil the hope that it may prove possible at an early date for that country to lay the basis for increased, rather than stabilized or decreased, trade with Germany along lines of normal economic advantage.

The general views of the Department as above outlined were set forth to the Brazilian Ambassador yesterday. The Ambassador stated

in the most emphatic terms his confidence in the Minister of Finance and in his judgment in this matter. He stated that the Minister, because of his visit to Washington, must understand much more clearly than the Minister for Foreign Affairs the objectives of the conversations held here. He felt sure that the Minister of Finance would act in the best of faith. With regard to the question whether the agreement should run 6 months or a year the Ambassador stated as his personal opinion that it would not be practical to limit the duration to less than a crop year.

The Ambassador states he has cabled the Minister of Finance suggesting he get in touch with you in the matter.

HULL

632.6231/236 : Telegram

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

WASHINGTON, September 2, 1937—7 p. m.

52. Referring to Department's telegram of today's date: In reply to his telegram to the Minister of Finance, the Brazilian Ambassador here has received a telegram stating "You can be sure that everything that I will do will be in accord with what was agreed in Washington."

HULL

632.6231/237 : Telegram

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

RIO DE JANEIRO, September 2, 1937—10 p. m.

[Received September 3—12:18 a. m.]

115. My telegram No. 112.³¹ The Minister for Foreign Affairs tells me this evening that owing to pressure from German and interested Brazilian sources he has been compelled to give up his idea of a 6 months' agreement. He now agrees with the Minister of Finance.

The proposed quotas follow: Coffee, 1,000,000 bags valued at 196,000 contos, as against 1,128,000 bags valued at 184,000 contos in 1936; cotton, 62,000 tons valued at 248,000 contos, as against 41,403 tons valued at 194,980 contos in 1936 (all other products exported last year amounted to 266,620 contos comprising 27 items, no single item being more than 7% of the total exportation). A definite commitment will be obtained from Germany against any direct subsidy in their exports to Brazil. The Minister remarked that it had been his intention to give this information to the German Chargé d'Affaires

³¹ August 31, 1 p. m., p. 337.

tonight. He has now promised to delay doing it. An expression of the Department's opinion in the premises will be helpful to me.

CAFFERY

632.6231/237 : Telegram

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

WASHINGTON, September 3, 1937—6 p. m.

53. Your telegram 115, September 2, 1 [10] p. m. The Department notes with gratification that a definite commitment will be obtained from Germany against any direct subsidy in exports to Brazil. Will this commitment be a part of the published agreement?

As stated in its telegram no. 51 of September 2, 6 p. m., the Department does not desire to comment directly on specific details of the proposed German-Brazilian commercial agreement. It feels constrained, however, to state that, according to statistical material in your telegram it appears that the proposed Brazilian export quotas to Germany provide for an increase of compensation trade rather than a limitation of such trade. Accordingly, unless there should occur a considerable increase in Brazilian demand and purchasing power for foreign goods, it would seem that Brazil under these quota commitments would not be complying with the assurance given in the note from the Brazilian Ambassador in Washington of July 15 [14], 1937, namely, that compensation trade "should be so regulated as to prevent the dislocation of trade with the countries carried out in free currencies and on a basis of equality". Accordingly, the Department inquires whether the proposed trade agreement will carry a provision for its modification if its actual operation should result in accumulating blocked balances in Germany which would tend artificially to stimulate Brazilian imports from that country.

HULL

632.6231/239 : Telegram

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

RIO DE JANEIRO, September 4, 1937—7 p. m.

[Received 8:55 p. m.]

116. I saw the Minister of Finance at noon today and discussed with him the German situation along the lines of the Department's telegrams 51 and 53. He stated that I would be shown this afternoon a copy of the proposed note to the German Chargé d'Affaires. He added that in compliance with a conversation he had in Washington with the Under Secretary of State, he would take steps to have 35% of the official exchange involved removed from the free market and

set aside by the Banco do Brazil to be used for purchases by the Federal Government of articles not competing with our exports. He emphasized that this was highly confidential. He remarked also that in his opinion the success or failure of this whole undertaking would depend upon the manner in which the joint committees which are to be appointed carry out their functions. He believes that these committees should be appointed without further delay.

This afternoon I discussed also the whole matter with the Minister for Foreign Affairs. He handed me (in confidence of course) a copy of the proposed note to the German Embassy. He asked me to let him have my comments thereon on Monday. I explained to him why that was impossible. He then said that he would notify the Germans that their agreement had been extended for a few days and hoped I would let him have my comments as soon as possible. I am transmitting a translation of the note in a separate telegram³³ and would appreciate your comments thereon.

CAFFERY

632.6231/240 : Telegram

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

WASHINGTON, September 9, 1937—6 p. m.

54. Your telegrams Nos. 116 and 117, September 4 and September 5.³³ The Department has read with interest the proposed Brazilian note to Germany with regard to the extension of the German-Brazilian trade arrangement. The Department notes with gratification that the Brazilian Government will receive from the German Government assurances that no article of German manufacture destined for importation into Brazil will be subsidized by the German Government. When you discuss this with the Brazilian Government the Department believes it will be useful for you to bring out clearly the fact that this protection against subsidy as phrased in the agreement could easily be nullified by special and indirect arrangements. It therefore hopes that the Brazilian Government will make clear to the German authorities its understanding that circumventing measures will not be employed. The Department understands that the maintenance of close watch on this point will be one of the duties of the Joint Committees.

With reference to point 9³⁴ of the proposed note, the Department would welcome assurances that this article will not operate to increase

³³ No. 117, September 5, not printed.

³⁴ This point related to a balance between German exports to Brazil and Brazilian exports to Germany and proposed that, in case the balance was upset, the two Governments should confer regarding measures to restore the equilibrium.

compensation trade in a way that will dislocate trade carried on in free currencies. In case Brazilian exports to Germany should exceed the latter's exports to Brazil and Brazil, under this article, should act to restore the balance by reducing the quotas of Brazilian export products which may be sold for verrechnung marks such action would be in consonance with the Brazilian Government's assurance that it intends to regulate compensation trade in order "to prevent the dislocation of trade with the countries carried out in free currencies and on a basis of equality". If, on the other hand, the measures taken to restore equilibrium were the artificial stimulation of Brazilian purchases of German goods through some action by the Brazilian Government such as lowering the exchange value of the verrechnung mark by action of the Banco do Brasil or by Government purchases or Government influencing of private purchases of German goods, such a solution would dislocate trade with free currency countries.

In case German exports to Brazil should exceed Brazilian exports to Germany, it would seem that Brazil would be in a favorable position to induce Germany to cease trading with Brazil on a compensation basis (through verrechnung marks) and abandon or lighten her exchange and quantitative restrictions on imports from Brazil since the only alternatives would apparently be for Brazil either to block payments for imports from Germany which were in excess of Brazilian exports to that country or to apply quantitative restrictions on imports from Germany in order to bring the compensation trade into balance.

Souza Costa talked with Aranha by telephone yesterday and assured him of his determination to adopt whatever measures are necessary to put into effect the assurances exchanged here. Please express to Souza Costa the Department's appreciation of his frank and cooperative attitude.

The Department hopes within the near future to communicate suggestions with regard to the establishment of the joint committees referred to in the Brazilian note to this Government of July 15 [14].

HULL

632.6231/241 : Telegram

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

RIO DE JANEIRO, September 10, 1937—noon.

[Received 1:27 p. m.]

118. Department's telegram No. 54, September 9, 6 p. m. While I concur that point 8 in the Brazilian note to the German Chargé d'Affaires does not envisage a protection against "special and indirect arrangements", the agreement arrived at with the Department, ac-

according to paragraph 3 of Aranha's letter of July 14th, only mentions "direct" subsidy. This appears to be in accordance with the points brought out on pages 7 and 8 of the confidential report of the Brazilian Mission forwarded to the Department in the Embassy's despatch No. 18, September 2nd.³⁵ The Department would now appear to be asking the Brazilian Government to go further than what has already been agreed upon. I would appreciate clarification of this point.

CAFFERY

632.6231/241 : Telegram

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

WASHINGTON, September 11, 1937—4 p. m.

55. Your 118, September 10, noon. The Department does not desire to ask the Brazilian Government in this instance to go further than what was agreed upon in the discussions in Washington in July. It believes, however, that it is neither in the interest nor is it the intention of the Brazilian Government to permit a commitment by the German Government to refrain from direct subsidies of exports to be nullified by circumventing arrangements which might not fall strictly within the definition of "direct subsidies". The Department believes that the Minister of Finance is in accord with this position which formed the basis of the whole discussions in Washington dealing with this matter.

Therefore the Department believes that you will not encounter any misunderstanding when you present this matter to the Brazilian Government.

HULL

632.6231/253

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

No. 61

RIO DE JANEIRO, October 2, 1937.

[Received October 7.]

SIR: Referring to recent correspondence regarding the German compensation mark matter, and especially to my telegram No. 118, September 10, I have the honor to report that the Brazilian Minister for Foreign Affairs informed me some time ago that the revised edition of the note, embodying the suggestions I made to him, had been duly transmitted to the German Chargé d'Affaires. However,

³⁵ Not printed.

he knows that the German authorities object to making the desired promises in regard to subsidies.

The German Embassy, of course, is in communication with Berlin on the matter; but it is the Minister's opinion that the Chargé d'Affaires will endeavor to postpone a final decision until the new German Ambassador arrives. Sr. Pimentel Brandão has assured me that it is not his intention to allow the matter to drift indefinitely.

Respectfully yours,

JEFFERSON CAFFERY

632.6231/262 : Telegram

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

WASHINGTON, November 3, 1937—8 p. m.

66. Your despatch no. 108, October 23, 1937.⁶⁶ You are authorized to say to the Foreign Minister that, without commenting at this time upon other provisions of the note sent by the German Embassy to the Brazilian Foreign Office on October 18,⁶⁷ this Government does not fully comprehend the purport of the statement appearing in the eighth item to the effect that the German Government is not granting and does not intend to grant subsidies on exports.

It is understood that most or all of the direct subsidies which are paid upon German exports are paid from a fund which is contributed, in the form of voluntary self-aid, by German industries. In this sense it may be nominally true that the German Government is not granting subsidies on exports. There can be no doubt, however, that contributions are in fact obligatory and that the organization administering distributions from this fund is under full control of agencies of the German Government and that its decisions are dictated by German Government policy. The ability of the German Government to assume responsibility for the administration of so-called private subsidies is clearly evidenced by the assurances which that Government gave to this Government last year that no public or private subsidies would be paid with respect to German exports to the United States.

You may say that the Department had in mind the foregoing system of subsidies and discussed it with members of the Brazilian Financial Mission in the conversations leading up to the agreement embodied in the exchange of notes last July. It is the view of this Government that the subsidization of exports by any organization, with the approval of and subject to the control of the German Govern-

⁶⁶ Not printed.

⁶⁷ Translation of German note enclosed with despatch No. 108, October 23, not printed.

ment, cannot be distinguished in its disadvantageous effects upon the export trade of other countries from direct governmentally bestowed subsidies and is as inconsistent as any other form of subsidy with the objectives of the conversations and the exchange of notes of last summer.

You are requested to ask the Foreign Minister whether the assurances given in the German counter proposal in regard to direct subsidies are to be construed as covering bounties and subsidies paid by organizations functioning under or in close cooperation with the German Government.

It is also observed that although the German Government undertakes to declare that it does not intend to pay subsidies in the future on exports to Brazil, this is only a statement of intention as of the present moment, and that there is explicit statement that the German Government cannot assume the contractual obligation not to take such measures in the future if it should regard them as necessary to restore competitive balance. The proposed German formula thus lacks the binding character of the promise given to the United States in 1936.

You should inquire, therefore, whether under the proposed agreement the Brazilian Government will reserve full freedom of action to comply with its commitments to the United States as regards subsidized competition in the event that the German Government should depart from its announced intention not to subsidize exports.

Please report by telegraph the results of your conversation.

WELLES

632.6231/264 : Telegram

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

RIO DE JANEIRO, November 10, 1937—8 p. m.

[Received November 10—5:54 p. m.]

150. Reference last sentence second paragraph of Department's 66, November 3, 8 p. m. Minister of Finance asked me urgently what form assurances mentioned took. He expressed a desire to know wording thereof.

CAFFERY

632.6231/264 : Telegram

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

WASHINGTON, November 11, 1937—5 p. m.

72. Your 150, November 10, 8 p. m. Following is literal translation of assurance given in German Embassy note of August 12, 1936³⁸ which was basis of Treasury Decision of August 14, 1936

³⁸ *Foreign Relations*, 1936, vol. II, p. 249.

modifying countervailing duty order against German goods, which you may show the Minister for his strictly confidential information.

"The German Government has taken measures to the effect that neither the use of the scrip and bond procedure will be permitted nor will the payment of a public or private premium or subsidy or the use of other German currency than Reichsmarks freely convertible into foreign currency or Reichsmarks freely utilizable in Germany be allowed in connection with the direct or indirect exportation of dutiable goods from Germany to the United States of America, in so far as such exportation takes place or may take place on the basis of agreements which were concluded on or after August 3, 1936."

The note embodying the foregoing assurance has never been made public, but it was the basis of and is very closely paraphrased in the Treasury Decision of August 14, 1936. WELLES

632.6231/262 : Telegram

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

WASHINGTON, November 13, 1937—10 a. m.

76. Department's no. 66, November 3, and no. 72, November 11. After further consideration of the German note of October 18, the Department has difficulty in understanding the purport of the sentence reading, "Brazil, during the life of the agreement, will not take steps by which the importation of German merchandise into Brazil and the importation of Brazilian merchandise on the part of Germany on a compensation basis might be disturbed or restricted." You are requested to discuss this provision orally with the Foreign Minister and to inquire as to its meaning, particularly with reference to the undertaking in the note of the Brazilian Ambassador to the Department dated July 14, 1937, stating that "the Brazilian Government intends that trade through compensating procedures, being susceptible of creating a situation which introduces difficulty into the trade with countries having a regime of currency of free international circulation, should be so regulated as to prevent the dislocation of trade with the countries carried out in free currencies and on the basis of equality." HULL

632.6231/268 : Telegram

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

RIO DE JANEIRO, November 23, 1937—1 p. m.

[Received November 23—1 p. m.]

173. Department's 66, November 3, 8 p. m. The Foreign Office handed me yesterday the new formula quoted below which it pro-

poses to embody in the arrangement with Germany (item No. 8 of the German counter-proposal transmitted in my dispatch No. 108 of October 23) ³⁹ which it hopes will meet our views regarding the question of subsidies and which it believes the Germans will also accept. The Foreign Office points out that the phraseology affords full opportunity for future protests on our part or on the part of Brazil in case we feel that Germany is attempting to use circumventing measures. Furthermore, the Minister of Finance contends that this formula goes much farther than the assurance mentioned in point 3 of Aranha's letter of July 14. The text of the draft formula follows:

"The two Governments agree that competition in the placing of foreign products on the markets of both countries should be on an equitable basis. The two Governments declare that they are not subsidizing in any manner whatsoever their exports to Germany and Brazil, respectively, nor will they do so during the life of this agreement, except in case one or the other nation is obliged to do so because of changed competitive conditions in the Brazilian and German markets, respectively, of imported products due to measures of a monetary or other nature which may be adopted by other nations."

The Foreign Office states it will take up the point treated in the Department's 76, November 13, 10 a. m., after it receives an expression of our views on the formula quoted above.

I would appreciate the Department's comments as soon as possible as the Foreign Office states it is most anxious to sign an agreement with Germany before the arrival on December 7th of the new German Ambassador who, it is feared, will be very "intransigent".

CAFFERY

632.6231/269 : Telegram

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

RIO DE JANEIRO, November 24, 1937—4 p. m.

[Received November 24—3 p. m.]

175. The Foreign Office today urgently requested me to obtain at the earliest possible moment the Department's reply to my 173, November 23, 1 p. m., stating that it is most anxious to sign the agreement with Germany this week.

The Foreign Office informs me that it has secured the consent of the Germans to omit from the agreement the point treated in the Department's 76, November 13, 10 a. m.

CAFFERY

³⁹ Not printed.

632.6231/272 : Telegram

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

WASHINGTON, November 24, 1937—2 p. m.

87. Your 173, November 23, 1 p. m. Please see Brazilian authorities at once and say that the suggested formula does not appear adequately to fulfill the commitment of the Brazilian Government to the United States with respect to competition of subsidized exports in the Brazilian market on commodities dealt with in the Brazilian-American trade agreement, and hence would not adequately protect the results of that agreement against possible displacement of American trade as a result of the use of subsidies. By the formula, each Government undertakes not to subsidize exports until such time as it shall determine that competitive conditions in the other country have changed because of measures adopted by other countries. It does not appear on the face of the text that the importing country assumes any responsibility or retains any right to participate in or to protest against the other's decision that conditions have changed for the stated reasons. The phrase regarding change of competitive conditions is so vague that the interested circles here would no doubt regard the formula as affording no real assurance against unfair German competition during the life of the agreement.

Suggest that this unsatisfactory situation could be corrected by adding the following sentence to the formula: "In no event will either country engage in or permit any subsidization of exports in the trade between them which would impair or contravene any international obligation or assurance of the importing country".

HULL

632.6231/276

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

No. 214

RIO DE JANEIRO, December 23, 1937.

[Received December 30.]

SIR: I have the honor to refer to the Department's telegram No. 87 of November 24, 2 p. m., suggesting an addition to the formula that the Foreign Office proposed to embody in the arrangement to be consummated with Germany. The Foreign Office now advises me that conversations will shortly ensue with the newly arrived German Ambassador, and it is expected that the arrangement with Germany will be consummated in the near future.

Referring specifically to the Department's suggestion, the Foreign Office indicates that while it does not believe that it will be possible to secure the consent of the Germans to follow the exact text proposed

by the Department, it probably will be possible to obtain the inclusion of a sentence which will meet the Department's views and which will run somewhat as follows:

"In no event will either country engage in or permit any subsidization of exports in the trade between them which would impair or contravene any international obligation or officially known assurance of the importing country."

The Foreign Office explained that the words "officially known" were intended to refer to the letter dated July 14th from the Brazilian Ambassador at Washington to the Department. The Foreign Office added that it sees no objection to the publication of this letter, and assumes that the Department will not object to it either.

Respectfully yours,

For the Ambassador:

R. M. SCOTTEN

Counselor of Embassy

632.6231/276 : Telegram

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

WASHINGTON, January 12, 1938—4 p. m.

3. Your despatch 214, December 23. The Department does not object to insertion of the words "officially known" in the undertaking regarding subsidization.

The Department would prefer not to have publication made at this time of the Brazilian Ambassador's note to the Department, dated July 14, 1937, but would have no objection to the Brazilian Government giving a copy of the note to the German Government with the understanding that it was not for publication.

HULL

**REPRESENTATIONS TO THE BRAZILIAN GOVERNMENT REGARDING
THE SUSPENSION OF SERVICE ON CERTAIN FOREIGN DEBTS**

832.51/1192 : Telegram

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

RIO DE JANEIRO, November 6, 1937—noon.

[Received November 6—11:57 a. m.]

141. Boucas⁴⁰ informs me that on account of the present confused situation caused by the decision of the Government to alter its coffee policy the Minister of Finance⁴¹ is considering recommending a suspension of service on certain foreign debts. He asserted, however,

⁴⁰ Valentim Boucas, member of the Brazilian Federal Foreign Trade Council and Special Technical Adviser to the Minister for Finance.

⁴¹ Arthur de Souza Costa.

that both the Minister of Finance and himself are determined to protect the dollar bonds in accordance with the conversations held in Washington. CAFFERY

832.51/1196

Memorandum by Mr. George H. Butler of the Division of the American Republics

[WASHINGTON,] November 11, 1937.

Mr. J. Reuben Clark, of the Foreign Bondholders Protective Council, telephoned this morning while Mr. Briggs⁴² was out of his office and I took the call.

Mr. Clark read the text of a telegram which he is sending to President Vargas of Brazil, the substance of which is approximately as follows:

The Council has noted press comment to the effect that Brazil is to suspend service on its foreign debt, and hopes that the President will be able to state that this report is not true. The Council considers that it would be most unfortunate for the first act of a new government to be the suspension of service upon its international obligations.

Mr. Clark stated that he is sending a copy of the telegram to the Department today, and that in the covering letter is expressing the opinion that the changed political situation in Brazil will raise the question of recognition,^{42a} and that he hopes that the Department will not accord recognition if it is true that Brazil has suspended service upon its foreign debt. Mr. Clark stated that he had telephoned to inform the Department of the foregoing because his letter could not reach Washington until tomorrow.

832.51/1195 : Telegram

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

WASHINGTON, November 11, 1937—2 p. m.

73. Your 148, November 10, 6 p. m.⁴³ Press despatches report the President of Brazil as stating without qualification that it will be necessary to suspend payment on Brazilian foreign debts. Such suspension will undoubtedly produce a severe shock to Brazil's credit standing and wide complaint from bondholders, who are always mindful of the credit balance in Brazil's trade with the United States.

⁴² Ellis O. Briggs, Assistant Chief, Division of the American Republics.

^{42a} For correspondence relating to recognition following abrogation of Brazilian Constitution and promulgation of a new one, see pp. 312 ff.

⁴³ Not printed.

The Department does not understand how the situation could so suddenly have changed from the favorable picture given by the Minister of Finance in Washington a few months ago to "the lack of foreign exchange" which he now mentions. Please discuss this with the Minister of Finance, ask for more detailed information, and urge the importance of promptness in clarifying the situation and renewing payments.

WELLES

832.51/1197: Telegram

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

RIO DE JANEIRO, November 12, 1937—2 p. m.

[Received 2:02 p. m.]

155. Department's cable 73. I discussed the matter with the Minister of Finance . . . He said that he would discuss the matter further with the President and the Cabinet. I shall discuss it also with the Minister for Foreign Affairs.

My confidential opinion, is that the President of Brazil made statement reported for domestic political reasons. In other words he was offering the people of Brazil approximately 45 million dollars a year.

CAFFERY

832.51/1197: Telegram

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

WASHINGTON, November 13, 1937—8 p. m.

78. Your 155, November 12, 2 p. m. Continue to impress on the Brazilian authorities the very serious nature of the reaction to debt suspension. London suspended all trading in Brazilian loans, Paris bourse took no official action but there were actual dealings in only one issue, with no bids in others, New York quotations shrunk nearly 30 percent. It would be most regrettable if these reactions to the first announcement should be allowed to harden into permanent adverse opinion in the great financial markets of the world and in the wider circles of the general public. The Brazilian action is also important as a regression from the general movement of recovery and stabilization of international financial relationships. You should urge the promptest possible consideration of this question with a view to doing whatever can be done to lessen the regrettable effects of the new default and to repair the damage already done.

HULL

832.51/1200 : Telegram

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

RIO DE JANEIRO, November 13, 1937—11 p. m.

[Received 11:20 p. m.]

162. My 155, November 12, 2 p. m. In informal conversation with the President this afternoon I stressed harmful effects of suspending foreign debt payments in the United States. Boucas tells me tonight very confidentially that the President has just authorized the December payments on the dollar bonds.

CAFFERY

832.51/1200 : Telegram

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

WASHINGTON, November 16, 1937—2 p. m.

80. Your 162, November 13. Recent developments make it possible that the controversies arising over Brazilian foreign debt may have most widespread disturbing effects, including potential controversies between the governments of creditor countries as to the treatment of bondholders of their respective nationalities. The Embassy in Paris advised the Department that the French Government may insist that service be continued and that if necessary to achieve this end the French Government would intervene to prevent the importation into France of Brazilian coffee. In response to the Embassy's request for information which might be communicated to the French Government, the Department is cabling as follows:

"You may tell de la Baume ⁴⁴ that the announcement of the Brazilian President of suspension of debt service was a distinct surprise. Upon this announcement the Foreign Bondholders Protective Council in New York made a vigorous protest in behalf of the holders of dollar bonds. The Department has asked its Ambassador to seek clarification of the situation and to use its good offices to make clear to the Brazilian Government the desirability of avoiding interruption of debt service, on the ground that it would be regrettable if Brazil thereby impaired its credit standing in the great financial markets of the world.

For your own information, Department would greatly regret if by this prospective action Brazil gravely prejudiced its credit standing and impaired its financial relationships in this country, Great Britain and France, both because of the economic and other indirect effects. It therefore will continue by all appropriate means, and wholly without threat of coercive measures, to seek to convince the Brazilian Gov-

⁴⁴ Robert Renom de la Baume, Director of the Division of Commercial Relations of the French Ministry for Foreign Affairs.

ernment of the desirability of doing everything compatible with its economic position to continue some measure of debt service. Both the Council and the Department necessarily could only put forward the interests of the holders of the dollar bonds, but the Department will seek in every way to avoid sponsoring measures discriminatory in character as between investors of different nationalities.

Correspondingly, it would be regrettable if the French Government were to try to impose measures on Brazil which involve terms for the French bondholders that Brazil was not in a position to extend to bondholders of all nationalities, and thereby create a potential controversy over discrimination which would redound to the disadvantage of investors of all nationalities."

The Department is informed that the Foreign Bondholders Protective Council has made a vigorous protest to the Brazilian Government. It has requested this Government to consider the use of coercive measures in order to secure the continuation of debt service on dollar bonds. The Department is definitely informing the Council that it will not consider the use of coercive measures. In its reply it has stated that three elements of the situation which it is called upon to consider are as follows:

"(1) The desirability of securing from the Brazilian Government as favorable treatment for American investors as the economic circumstances of Brazil make possible.

(2) The desirability of avoiding conflicting action towards this end on the part of the several governments of the creditor countries concerned.

(3) The desirability of avoiding action which might compel Brazil to impose new restrictions upon its trade with the United States, and possibly even seriously prejudice the operation of the Brazilian-American commercial agreement."⁴⁵

All of the above is transmitted to you as background information.

You will recognize the importance of not having the situation become one of protracted dispute and delay. It seems to the Department that it would be most helpful if the Brazilian Government would promptly announce that it would appoint a commission to get in touch at once with the representatives of the bondholders in the different countries, and to explain to them fully Brazil's economic situation with the view of arriving at new agreements for the handling of the debt in accordance with Brazil's situation, and act upon this announcement promptly.

If this suggestion seems to you sound, you may put it before the Brazilian Government.

HULL

⁴⁵ Reciprocal trade agreement signed February 2, 1935, Department of State Executive Agreement Series No. 82, or 49 Stat. 3808; for correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 300 ff.

832.51/1205 : Telegram

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

WASHINGTON, November 17, 1937—4 p. m.

81. Department's 80, November 16, 2 p. m. The French Foreign Office has been informed by the British Foreign Office that on November 15 the Brazilian Government informed the British Embassy that it had decided not to interrupt debt service and that the Government would appoint a committee to examine the situation and to enter into negotiations with the foreign bondholders. The French Foreign Office is advising the French Embassy at Rio de Janeiro of this information and instructing it to obtain the same assurances from the Brazilian Government.

Can you confirm the reported change of position of the Brazilian Government? Will early announcement on the subject be made for the equal information of all bondholders?

HULL

832.51/1207 : Telegram

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

RIO DE JANEIRO, November 17, 1937—8 p. m.

[Received 8:08 p. m.]

167. Department's 80, November 16, 2 p. m. and 81, November 17, 4 p. m. As pointed out in my telegram No. 162, November 13, 11 p. m., the President, after my conversation with him, that day authorized the December payments thereby avoiding an interruption in the debt service. The Government has not (yet) considered appointing a committee to conduct negotiations. The Minister of Foreign Affairs says that the Minister of Finance stands ready to enter into negotiations with the foreign bondholders. In the case of American bondholders he assumes that the negotiations already under way will be continued through Boucas (who has been keeping the Foreign Bondholders Protective Council currently informed). The Minister for Foreign Affairs emphasized that it is not the Government's intention to take any unilateral action.

On November 15 the Minister for Foreign Affairs in my presence informed the British Ambassador that the President has authorized the December payments (as I reported November 13) and that the Government stood ready to enter into negotiations with interested parties.

The Minister quite obviously did not care to commit himself yet as to a public announcement on the subject and I shall take this matter up with him again later.

CAFFERY

832.51/1211 : Telegram

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

RIO DE JANEIRO, November 18, 1937—1 p. m.

[Received November 18—11:45 a. m.]

168. Referring to Department's 81 November 17, 4 p. m. and to my 167 November 17, 8 p. m. The confused situation regarding the intentions of the Brazilian Government as regards the debt situation arises from the fact that, although the President announced in his speech of November 10 his intention to suspend debt payments (in effect offering the nation 45 millions a year), my efforts were successful in persuading him to change his policy, at least to the extent of authorizing the December payments, thereby preventing an immediate interruption of the debt service. It is obviously difficult for him, in the face of his original statement, to make a public announcement at the present time indicating so early a change of policy. In fact from conversations I am convinced that the Government itself has not yet decided upon a definite line of action. Obviously at some date in the near future an announcement will have to be made to clarify the situation and I will not fail to continue to urge this necessity in the proper quarters.

CAFFERY

832.51/1216 : Telegram

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

RIO DE JANEIRO, November 21, 1937—6 p. m.

[Received November 22—9:05 a. m.]

171. Following is an excerpt of an official statement given to the press by the office of the President after a meeting of the Cabinet held last night:

"It was decided to suspend as of this date the remission of funds destined to the service of the external debt 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. The suspension will not include the obligations assumed for the liquidation of commercial credits in arrears."

CAFFERY

832.51/1244

*Memorandum of Conversation, by the Adviser on International
Economic Affairs (Feis)*

[WASHINGTON,] November 22, 1937.

Mr. Aranha⁴⁶ called upon Mr. Welles further to discuss the Brazilian debt problem.

Mr. Welles informed him of the observations that had been made by Mr. White⁴⁷ regarding the inauguration of discussions. The Ambassador said that he could not go to New York tomorrow (and Mr. White could not come to Washington because of a previous engagement with the mission from the City of Danzig); it was therefore agreed that the beginning of discussion should be postponed until Mr. Clark,⁴⁸ who is now in Utah, could come to Washington, which according to Mr. Clark's present schedule would have been some time next week. After discussion it was decided that I should inform Mr. White that the protraction of delay was greatly to be regretted because the Ambassador would have to leave shortly for Brazil, and that Sunday would be a good day for the Ambassador, and that therefore I should ask Mr. White to inquire of Mr. Clark whether he could hasten his return and meet with the Ambassador on Sunday. (This I did subsequently.)

A general discussion regarding the possible bases of discussion with the Council ensued. The Ambassador stated that he thought Souza Costa, the Minister of Finance, was making a special effort to resume some payment on the American debt. But he also was strongly of the opinion that the only form of settlement that would interest the Brazilian authorities would be a permanent settlement which would result in one new type of Brazilian security to be exchanged for all types of dollar securities. The Ambassador argued that this would be to American advantage since the American holdings of Brazilian state and city loans were so much greater proportionately than the American holdings of Federal loans. He brought out the fact that Argentina had sustained full payment on its Federal loans while the provinces had gone into default.

I merely stated that I could not talk for the Council, that I assumed the Council would be willing to discuss a permanent settlement if the Brazilian authorities were prepared to make an offer which it could recommend as satisfactory to the bondholders as a permanent offer.

⁴⁶ Oswaldo Aranha, Brazilian Ambassador in the United States.

⁴⁷ Francis White, Executive Vice President and Secretary of the Foreign Bondholders Protective Council, Inc.

⁴⁸ J. Reuben Clark, Jr., President of the Foreign Bondholders Protective Council, Inc.

I remarked that I had to point out that the Council was naturally apprehensive lest the Brazilian authorities would confront it with a permanent offer calculated on a greatly reduced capacity for payment corresponding to the coffee price lower than at any time in the recent past.

I am frankly afraid that this question of permanent versus temporary settlement is going to be a great source of difficulty. I rather gather from the Ambassador's incidental remarks that he was of the opinion that the whole spirit in Brazil was against the payment of foreign debt. I received the distinct impression that the Ambassador had not been consulted regarding the method of handling foreign debts, and felt that the situation was being exploited in Brazil with the hope of getting rid of the Brazilian foreign debt (or at least to reduce the service tremendously), and that he further felt the Brazilian authorities did not fear the consequences of action of this type. In that connection I took occasion to emphasize to him the great number of American holders of Brazilian securities and to remark that cessation of payment by Brazil would be regarded as an injurious action by these bondholders.

The Ambassador did not manifest his usual spirit of assurance.

He incidentally gave as his opinion the prophecy that Brazil would not pay anything, at any rate in the immediate future, on its European debt.

I telephoned immediately thereafter to Mr. White and gave him the substance of the preceding. He said he would telephone Mr. Clark tomorrow morning and after talking with Mr. Clark would telephone us and possibly also the Ambassador.

832.51/1219 : Telegram

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

RIO DE JANEIRO, November 23, 1937—noon.

[Received November 23—11:20 a. m.]

172. My 171, November 21, 6 p. m. In the face of the Minister for Foreign Affairs' statement that no unilateral action would be taken, the Government decided on Saturday evening to interrupt debt payments. However, as the Department will observe, the Government no longer talks (my telegram No. 155, November 12, 2 p. m., in regard President Vargas' radio broadcast of November 10) of a prolonged moratorium. Boucas informs me the Minister of Finance will initiate conversations with the bondholders at an early date, possibly the end of this week. Furthermore the Government has instructed the states

and municipalities, as well as the Bank of Brazil, to continue to collect all funds payable under the Aranha plan and held in a special account pending conclusion of negotiations with the bondholders.

Boucas informs me confidentially that Brazil's capacity of payment of the foreign debt since the abolishment of the 35% exchange quota means a reduction in foreign currencies of approximately 30%.

CAFFERY

832.51/1252 : Telegram

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

WASHINGTON, December 24, 1937—1 p. m.

98. Please keep the Department informed by telegraph regarding developments in the dollar bond situation, including the work of the conferences reported to have started on December 20 with representatives of the states for the purpose of studying "debt coordination and ways and means to meet payments." Press despatches on latter suggest that Brazil is contemplating certain radical changes in debt servicing procedure.

The Department also desires that you continue to use your best efforts towards impressing the Brazilian Government with the great importance of initiating negotiations with representatives of the American bondholders without delay, and you are requested to emphasize this in such conversations as you may have with Aranha. Immediate and tangible progress in the matter and the earliest possible real assurance of a disposition to make some reasonable offer should be very helpful to Brazil's general reputation and credit standing in this country; delay and uncertainty are correspondingly harmful.

HULL

832.51/1251 : Telegram

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

RIO DE JANEIRO, December 25, 1937—5 p. m.

[Received December 25—4:50 p. m.]

195. Neither Embassy nor Brazilian authorities know anything of conferences mentioned in first paragraph of Department's telegram No. 98 December 24, 1 p. m. I am, of course, continuing to urge the prompt initiation of negotiations with representatives of American bondholders.

CAFFERY

832.51/1252 : Telegram

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

RIO DE JANEIRO, December 26, 1937—2 p. m.

[Received December 26—1:25 p. m.]

196. My 195, December 25, 5 p. m. In the budget for 1938, submitted to the President by the Minister of Finance yesterday for approval, the sum of 240,000 contos is allotted for servicing the federal foreign debt.

CAFFERY

REPRESENTATIONS TO THE BRAZILIAN GOVERNMENT REGARDING
PROPOSED INSURANCE LEGISLATION AFFECTING THE RIGHTS OF
AMERICAN COMPANIES

832.506/27

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

No. 1342

RIO DE JANEIRO, April 15, 1937.

[Received April 23.]

SIR: I have the honor to refer to the Department's instruction No. 589 of October 16, 1936,⁴⁹ and previous correspondence concerning a bill pending before the Brazilian Congress providing for the nationalization of insurance companies and the establishment of a federal re-insurance institution in Brazil.

Mr. W. S. Cunningham, the local representative of the two American insurance companies doing business in Brazil, called at the Embassy yesterday and stated that the situation in regard to the proposed legislation had altered materially from that described in the Embassy's despatches Nos. 1160 of September 22, 1936, and 1168 of September 25, 1936.⁵⁰ Mr. Cunningham stated that the bill had been referred in turn to three committees of the Chamber of Deputies, namely, the Committees on Justice, Social Legislation and Finance. The first of these committees made certain minor amendments in the bill as originally presented, the main one of which would extend from six to nine months the period within which foreign insurance companies must turn their business over to Brazilian companies with at least two-thirds of their stock owned by Brazilian nationals. In this connection, Brazilian insurance companies already established, most of which are of predominantly foreign capital, have five years

⁴⁹ Not printed.

⁵⁰ Neither printed.

to adapt themselves under the bill to the new régime whereby two-thirds of the capital control is to be in the hands of Brazilian nationals. The Committee on Justice reported the bill, as amended, favorably some time ago, although there appears to have been some opposition in the discussions of the Committee.

The bill then went to the Committee on Social Legislation, which likewise shortly presented a favorable report, adopted by the Committee by acclamation and without any additional changes. Thereafter the bill was referred to the Committee on Finance. According to information which has reached Mr. Cunningham, the member of the Finance Committee to whom the bill was referred for study has already submitted a draft report to the whole Committee and it is expected that action will be taken on this shortly. While Mr. Cunningham is not informed as to the nature of the draft report, the inference is that it is likewise favorable. He expressed concern over the manner in which, in his words, the bill was "obviously being pushed through without adequate consideration".

Should the report of the Finance Committee to the Chamber be favorable, the bill will go to the floor of the Chamber for action. While the President of the Chamber of Deputies, and certain other leading Deputies, have connections with Brazilian insurance companies (with foreign capital) which are just as opposed to the proposed legislation as are the foreign insurance companies operating in Brazil, Mr. Cunningham and the other representatives of the foreign insurance companies are not at all sanguine of success in securing the defeat of the bill or amendment thereof to make it satisfactory to them. Mr. Cunningham referred to the chances as being at the most "50-50".

In view of recent developments, Mr. Cunningham stated that he felt that the time had now come for definite diplomatic representations by the Embassy on behalf of his American principals. He asked that the Embassy or the Department of State make formal representations to the Brazilian Government against the proposed legislation, as has already been done by the British Embassy in Rio de Janeiro. He said that he would today recommend by air mail to his principals that they immediately request the Department to have such action taken. In this connection Mr. Cunningham left with me a copy of an excerpt from a memorandum which the British insurance companies established in Brazil apparently presented to the British Foreign Office some months ago, as well as of a supplementary memorandum commenting thereon, which they submitted to the British Ambassador to Brazil and which he used in the last representations made by him to the Brazilian Foreign Office in this connection.

Copies of these two documents, which give the principal arguments of the foreign insurance companies against the proposed legislation clearly and succinctly, are enclosed.⁵¹

Mr. Cunningham made certain comments of interest in that they modify the picture presented by him in his previous conversations with the Embassy, as reported in the Embassy's despatches Nos. 1160 and 1168. He affirmed that while it was true that there were 19 British companies doing business in Brazil as compared to only two American companies, both represented by him, and that consequently, the British had the bulk of the business, nevertheless, the more important of his companies was the one which had the most important individual share of the Brazilian business.

So far as the plan is concerned which Mr. Cunningham had evolved to enable his principals to continue to do business through a dummy holding company of Brazilian nationality, described at the bottom of page two and top of page three of the Embassy's despatch No. 1168, he stated that he had had this scheme thoroughly studied by his attorneys. They have now given him their carefully considered opinion that the plan will be illegal in view of the clear wording of the bill, which provides that two-thirds of the shares of stock in a Brazilian insurance company shall be held by Brazilians and not more than one-third in the hands of foreigners, and that the latter capital interest must be in the hands of individual foreigners, preventing the possibility of any being held by foreign corporate organizations, directly or indirectly.

I asked Mr. Cunningham whether he thought that any legislation which would satisfy the foreign insurance companies and adequately protect their interests could be anticipated, under the most favorable circumstances, in view of the clear provisions of Article 117 of the Brazilian Constitution of July 16, 1934, which reads, in translation:

"The advancement of social economy (*economia popular*), the development of credit and the progressive nationalization of banks of deposit, shall be promoted by legislation. Similarly, it shall provide for the nationalization of insurance enterprises in all of their aspects; the foreign (insurance) corporations which now operate in the country should be transformed into Brazilian corporations."

He replied that he thought this was possible, as he interpreted the Constitution merely to require that insurance companies be established in Brazil subject to Brazilian laws, just as most of the other large foreign corporations operating here have local subsidiaries. He expressed the belief that vested property and investment rights could and should be protected in complete accord with the Constitution,

⁵¹ Not printed.

merely by providing for the establishment of national insurance companies under local laws, properly safeguarded, without any provision as to majority ownership thereof being in Brazilian hands.

In a conversation with a member of the Embassy staff yesterday evening, Dr. Mario de Pimentel Brandão, Brazilian Acting Minister for Foreign Affairs, stated that he had the day before discussed the matter of the pending insurance legislation with President Getulio Vargas, pointing out that the British Ambassador had made strenuous representations and that something should be done. It appears that the Acting Foreign Minister is sympathetic to the arguments of the foreign insurance companies. Dr. Pimentel Brandão said that the President had replied that he did not see what he could do in regard to the matter since legislation of the nature proposed was clearly provided for in the Constitution. It would consequently seem that, should the Brazilian Congress pass the proposed legislation in its present form, as is to be expected, the President will approve it, unless effective pressure can be brought to bear, and foreign interests will be faced with a *fait accompli* as in the case of the recent legislation in regard to freight rates from Brazil (see the Embassy's despatch No. 1283 of February 17, 1937,⁵² and other correspondence.)

Should the Department decide to take any steps on the insurance companies' request, it would appear that they should be taken promptly in view of the advanced nature of the preliminaries to final legislation and executive action thereon.

Respectfully yours,

R. M. SCOTTEN

832.506/28

The Secretary of Commerce (Roper) to the Secretary of State

WASHINGTON, April 28, 1937.

MY DEAR MR. SECRETARY: The inclosed memorandum indicates that proposed legislation in Brazil would be detrimental to American insurance interests in that country and that representatives of other foreign governments, whose companies are similarly affected, are formally intervening.

I should therefore appreciate the initiation of formal representations by our Government in order to protect the interests of our nationals.

Very sincerely,

DANIEL C. ROPER

⁵² Not printed.

[Enclosure]

*The Director of the Bureau of Foreign and Domestic Commerce
(Dye) to the Secretary of Commerce (Roper)*

MEMORANDUM

WASHINGTON, April 23, 1937.

The American Foreign Insurance Association, which is composed of American insurance companies engaged in the insurance business in foreign countries, has been perturbed by a bill introduced in the Brazilian Congress which would nationalize insurance in that country and establish a Reinsurance Institute.

There is inclosed copy of a letter dated March 30, 1937,⁵⁵ addressed to the Association by its representative in Brazil together with a report of the Brazilian Committee on Constitution and Justice indicating the present status of this proposed legislation.

Sometime ago the inclosed brief was prepared by the Brazilian representative of the American Foreign Insurance Association. A copy of it is inclosed.⁵⁵ It is so comprehensive that no comment need be made.

As of December 31, 1922, assets of foreign insurance companies in Brazil were Rs. 25.164:354\$000. On December 31, 1934, the latest available figures obtainable, assets of these companies increased to Rs. 109.086:119\$000, of which Rs. 40.247:649\$000 were invested in bonds of the external debt.

These data indicate that the increase in assets in the country increased by some Rs. 84.000:000\$000 during the 12 year period. The increase in holding of external bonds amounted to Rs. 26.000:000\$000 leaving a balance of Rs. 58.000:000\$000 in additional assets as against a profit of approximately Rs. 44.000:000\$000. The American Foreign Insurance Association contends, therefore, that there was no export of premiums on profits which was not more than compensated by the entry of new capital. The operations of the foreign insurance companies did not result in the withdrawal of funds from Brazil but on the contrary brought approximately Rs. 14.000:000\$000 into the country.

The principal reason advanced for the proposed legislation is that it would end the "export of gold" from the country as indicated in the statement that there is need "to regulate the insurance business between this and foreign countries by maintaining a system of mutual advantage and reducing to a minimum the remittance of exchange."

The data furnished by the Association definitely establishes that the argument that the proposed legislation is needed to prevent withdrawals from Brazil is without merit since over the 12 year period the

⁵⁵ Not attached to file copy.

net effect has been to increase the assets of the foreign companies within the country.

It is a fair question to raise in view of this, whether the present legislative proposal is not confiscatory in purpose rather than designed to bring about the progressive nationalization of insurance companies as contemplated by the framers of the new Brazilian Constitution. It is also perhaps fair to state confiscation of foreign interests in the insurance business under the guise of nationalization may be only a prelude to similar action in other industries.

Another interesting point made by the Association is that about one-third of the present market value of shares of national companies is held by foreigners; several national companies are entirely owned by foreigners; and Brazilian capital would not be able to absorb at fair prices the foreign held shares in such national companies. In addition, additional capital would have to be found to replace that of the foreign companies. It would therefore be necessary to reduce the sale price of such foreign held shares before Brazilian capital could take them over.

The American Foreign Insurance Association has learned that several foreign governments, notably, Great Britain, France and Germany have been making representations in behalf of their respective companies and as no action has been taken by our Government to protect our insurance interests, has requested that our Ambassador to Brazil be instructed to intervene.

ALEXANDER V. DYE

832.506/28 : Telegram

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

WASHINGTON, May 5, 1937—11 a. m.

22. Your despatch 1342, April 15, 1937. You are authorized, in your discretion, to leave an *aide-mémoire* with the Brazilian Government, in which you may state that your Government confidently assumes that in connection with any insurance legislation which the Brazilian Government may enact, the rights of American companies now legally operating in Brazil will be adequately protected.

Please cable summary of reply when received.

HULL

832.506/31 : Telegram

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

RIO DE JANEIRO, May 8, 1937—10 a. m.

[Received 11:40 a. m.]

42. Department's 22, May 5, 11 a. m. I discussed the insurance legislation with the Acting Minister of Foreign Affairs⁵⁵ yesterday

⁵⁵ Mario de Pimentel Brandão.

and left an *aide-mémoire*⁵⁶ substantially as indicated in the Department's instruction. The Minister was fully conversant with the question, having been approached on several occasions by the British, French, German and Italian diplomatic representatives here. He informed me that he fully recognizes the harm which the legislation if passed in its present form would do to foreign insurance companies and said that he had discussed the matter fully with the President. He assured me that the insurance companies would have a full opportunity to present their case before any action was taken and added with a significant gesture that there is nothing for the companies to worry about at present. I assume the attitude of the Minister of Foreign Affairs to mean that the President has passed word along in proper quarters to the effect that no action should be taken upon the proposed legislation at least during this session of Congress.

The Embassy, however, will continue to follow this matter closely.

SCOTTEN

832.506/33

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

No. 1422

RIO DE JANEIRO, June 24, 1937.

[Received July 11.]

SIR: I have the honor to refer to the Embassy's telegram No. 42 of May 8, 10 a. m., and to previous correspondence regarding the project of law providing for the nationalization of insurance companies and the establishment of a federal re-insurance institution in Brazil.

Although, as reported in the Embassy's telegram under reference, the project of law dealing with this subject has been temporarily shelved, there is, of course, no assurance that it will not be actively pushed at some future date. The bill is at present in the Finance Committee of the Chamber of Deputies and the influence of the Minister of Finance⁵⁷ upon the activities of that Committee is, of course, considerable. It occurs to me that the presence of the Minister of Finance in Washington at this time presents an opportune moment for the Department to mention this matter to him, either directly or through Ambassador Aranha, in order to elicit, if possible, assurances from the Minister that, when he returns to Brazil, he will take active steps to kill this thoroughly obnoxious piece of legislation. It is my impression that Ambassador Aranha himself is firmly opposed to the passage of any legislation in Brazil which might serve as a deterrent to the entry of foreign capital here, and that if the question were put

⁵⁶ May 6, not found in Department files.

⁵⁷ Arthur de Souza Costa.

up to him in this light it is quite possible that his influence, added to that of the Department itself, might secure the support of the Minister of Finance to our point of view.

Respectfully yours,

R. M. SCOTTEN

832.506/34

*The Chief of the Division of the American Republics (Duggan) to the
Brazilian Minister of Finance (Souza Costa)*

WASHINGTON, August 4, 1937.

MY DEAR MR. MINISTER: I regret that I was absent when you called the day prior to your departure from Washington.

I wanted to tell you personally how much we enjoyed your visit and express the gratification of myself and other officers of this Department at the opportunity of discussing with you the trade and financial relations of our two countries. The frankness and friendly comprehension of this Government's point of view which you brought to the discussions were greatly appreciated here.

I had intended when I saw you again also to take up one further matter which has caused some concern to American interests. I refer to the proposed Brazilian insurance law which in its present form, according to certain students of the matter, might tend to expel foreign capital which Brazil may not be prepared to replace with its own capital, and to discourage the ingress of new foreign capital by the spirit of nationalism it appears to display. The insurance companies argue also that it might result in an inconvenient withdrawal of capital across the exchanges, and that the new setup, including the monopoly of re-insurance, would result in a larger flow of premium funds out of the country than the present régime. They also argue that the "nationalization" of the insurance business might somewhat impair the insurance protection enjoyed by Brazilians, or at least impair the confidence of foreigners in such protection of property in Brazil.

In transmitting these comments I wish to make it clear that they are not the observations of this Department, but of certain American economists who have studied the proposed law and of American insurance interests which might be affected by this legislation. Since I had planned to mention them orally to you I take the liberty now of bringing them to your attention for such consideration as they merit.

We are, of course, sure that no action with respect to insurance control will be taken by your Government until all factors have been thoroughly explored and we know that American interests will receive equitable consideration.

Sincerely yours,

LAURENCE DUGGAN

832.506/36

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

No. 33

RIO DE JANEIRO, September 14, 1937.

[Received September 21.]

SIR: I have the honor to refer to the Embassy's despatch No. 1422 of June 24, 1937, regarding the bill providing for the nationalization of insurance companies and the establishment of a Federal Reinsurance Institution in Brazil.

Although, as reported in the above mentioned despatch, the bill has been shelved for several months, it is again being actively discussed in the Finance Committee of the Chamber of Deputies, and there is at least a possibility of its passage during the present session of the Brazilian Congress, which is scheduled to terminate on November 3rd. However, Mr. William Cunningham, the representative of the two American insurance companies which operate in Brazil, informed the Embassy today that he has just had a long conversation with Senhor Valentim Bouças⁵⁸ regarding this subject, and received the assurance of Senhor Bouças that he would urge on the Minister of Finance the desirability of the latter using his influence to delay this legislation still further. Mr. Cunningham seemed confident that the Minister of Finance would come to the assistance of the foreign insurance companies, and for this reason he stated that he did not desire the Embassy to make any representations for the time being.

Respectfully yours,

For the Ambassador:

R. M. SCOTTEN

Counselor of Embassy

832.506/37: Telegram

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

RIO DE JANEIRO, October 18, 1937—3 p. m.

[Received 6:30 p. m.]

131. My despatch No. 33 of September 14. My despatch No. 84 of October 15⁵⁹ reported the local representative of the American Foreign Insurance Association optimistic as to the final outcome of the pending insurance legislation due to presentation by a Deputy of a satisfactory substitute bill. However, Cunningham now informs me the passage of the objectionable legislation appears imminent due to the rejection of the substitute bill and the approval of the original bill by the Finance Committee of the Chamber of Deputies. This committee at the same time approved a motion requesting in-

⁵⁸ Member of the Brazilian Federal Foreign Trade Council and Special Technical Adviser to the Minister of Finance.

⁵⁹ Not printed.

formation from the Minister of Finance as to the effect of this legislation upon the finances and exchange position of Brazil but the wording of the motion is such that the bill may be brought to the floor of the Chamber of Deputies before the receipt of the information solicited.

Minister of Finance gave me to understand a few days ago he is opposed to the bill but I understand it is being pushed by the Minister of Labor⁶⁰ with the approval of the President and it is uncertain whether the Minister of Finance will be able to effect a change favorable to the insurance companies.

I have called the attention of the Minister for Foreign Affairs⁶¹ to the Embassy's *aide-mémoire* of May 6 reported in the Embassy's telegram No. 42, May 8, 10 a. m. CAFFERY

832.506/39

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

No. 102

RIO DE JANEIRO, October 20, 1937.

[Received October 26.]

SIR: Referring to previous correspondence regarding the bill providing for the nationalization of insurance companies and the establishment of a Federal Reinsurance Institution in Brazil, and especially to my telegram No. 131 of October 18, 3 P. M., I have the honor to report that I discussed the matter of the impending insurance legislation informally today with the Minister for Foreign Affairs. He told me that he is opposed to the bill, which is now before the Chamber of Deputies, and that he is endeavoring to persuade President Vargas to oppose it also. He added, however, that the Minister of Labor is vehemently insisting that the bill be passed.

The Minister for Foreign Affairs remarked that, without doubt, new insurance legislation is much needed here, but he feels that the necessary aims can be accomplished without going to the extremes reached in the pending bill of the Minister of Labor.

Respectfully yours,

JEFFERSON CAFFERY

832.506/41

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

No. 111

RIO DE JANEIRO, October 26, 1937.

[Received November 2.]

SIR: I have the honor to refer to my despatch No. 102 of October 20, 1937, and to previous correspondence regarding the bill providing

⁶⁰ Agamemnon Sergio Godoy de Magalhaes.

⁶¹ Mario de Pimentel Brandão, appointed Minister for Foreign Affairs by presidential decree of September 1, 1937.

for the nationalization of insurance companies and the establishment of the Federal Reinsurance Institute of Brazil.

The bill in question was brought upon the floor of the Chamber of Deputies on October 23rd for second reading. Upon this occasion there were presented numerous amendments to the bill, apparently inspired by the lobby of the foreign insurance companies here. The result was that the bill was referred back to the Committee of Justice, and must again be considered, not only by this committee but by the Committees of Social Legislation and Finance as well, before it is brought to the floor of the Chamber for the third reading. The insurance companies, while by no means optimistic that they can prevent the eventual passage of the bill, are at least hopeful that through tactics such as those reported above they will be able to delay its passage for some time.

Respectfully yours,

For the Ambassador:
R. M. SCOTTEN
Counselor of Embassy

832.506/44

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

No. 215

RIO DE JANEIRO, December 23, 1937.

[Received December 30.]

SIR: I have the honor to refer to my despatch No. 203 of December 17,⁶⁴ enclosing copy and translation of a memorandum prepared by the Legal Adviser of the Ministry of Labor, which expresses the opinion that Article 145 of the new Constitution is fully operative at the present time and that foreign insurance companies at present operating in Brazil should immediately go into liquidation.

I am now informed by Mr. Cunningham, the local representative of the American insurance companies operating here, that a representative acting on behalf of all the foreign insurance companies, called upon the Minister of Labor on December 20th and inquired regarding the significance of the memorandum under reference. The Minister of Labor replied that he deplored the publication of this opinion, which neither has the force of law nor reflects the views of the Minister himself. The Minister explained that the memorandum merely reflected the personal opinion of the writer and was not an expression of the views of the Brazilian Government, and that for

⁶⁴ Not printed.

the time being, at least, the latter was not contemplating any action injurious to the foreign insurance companies.⁶⁵

Respectfully yours,

For the Ambassador:
R. M. SCOTTEN
Counselor of Embassy

REPRESENTATIONS TO THE BRAZILIAN GOVERNMENT FOR PROTECTION OF AMERICAN INTERESTS AFFECTED BY PROPOSED LEGISLATION AGAINST ALIEN OWNERSHIP OF DEFENSE INDUSTRIES

832.5034/35

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

No. 1383

RIO DE JANEIRO, May 19, 1937.

[Received June 1.]

SIR: I have the honor to transmit herewith a copy of a letter dated May 18, 1937,⁶⁶ received by the Embassy from the local representative of the du Pont interests, requesting that the Embassy make representations with a view to having eliminated from pending legislation provisions to restrict to native-born Brazilians the ownership of shares of corporations established in Brazil to deal in electro-chemical products, metallurgy and explosives.

The measures to which the enclosed letter objects are two suggested amendments to bill No. 424 of 1936, which proposes to regulate the establishment and functioning of corporate organizations (*sociedades anônyimas*) in Brazil. The amendments in question were introduced in the Chamber of Deputies on January 8, 1937, by Deputy Henrique Lage, after the bill as a whole had passed its second reading. They were referred to the Chamber Committee on the Constitution and Justice. It is understood that the Committee has not yet reported upon them, but, once it does, final legislative action will probably not be long delayed since the bill only requires a third reading for passage by the Chamber.

Copies and translations of the two pertinent amendments are enclosed.⁶⁶ It will be noted that the first amendment provides that corporations intended for the carrying out of operations of interest to the national defense of Brazil, "such as navigation, naval construction, siderurgy, electro-chemistry, mining, (the manufacture

⁶⁵ No legislative action was taken until 1939 when a decree-law required all domestic insurance companies, Brazilian and foreign, to reinsure only with the Reinsurance Institute.

⁶⁶ Not printed.

of) war material and explosives, can only be formed by shares made out in the name of the owners (which must be) the property of native-born Brazilians." This amendment by itself would apparently not affect corporations already legally established in Brazil, although it would interfere with the incorporation of the new company to take over the du Pont business in Brazil, *Industrias Quimicas Brasileiras "Duperial", S. A.*, if the amendment were enacted into law and the legal steps for incorporation were not completed before that occurred.

The second amendment, however, which provides that "the peremptory provisions of this law are applicable to all corporations in operation," if enacted would apparently prevent any foreign capital in the Brazilian industries mentioned, whether the corporations involved were or were not already legally constituted.

It will be further noted that the author of the amendments is a class deputy who is a member of a leading Brazilian industrial family which has extensive interests in coastwise navigation, ship construction and mining. Mr. Lage's personal interest in pushing these amendments is obvious. The Embassy is not in a position to judge at the present time as to the chances of passage of the amendments, although they do not seem to be consistent with the President's many pronouncements during the past two years as to the desire of his administration to attract foreign capital.

The British Ambassador informed me a few days ago that he had presented a short *aide-mémoire* to the Brazilian Foreign Office, commenting upon the pending legislation and expressing the expectation that the interests of British companies already established in Brazil would be adequately protected in any measure which might be enacted into law.

I should appreciate it if the Department could instruct me as to the nature of representations, if any, which I should make in the premises. In view of the advanced state of the bill, a telegraphic reply is requested.

In this connection it should be noted that the new corporate entity to operate in Brazil and take over the du Pont interests in this country, *Industrias Quimicas Brasileiras "Duperial", S. A.*, will be a joint subsidiary of the E. I. du Pont de Nemours Company and the Imperial Chemical Industries. The Embassy is not informed as to what share each of the parent companies will have in the Brazilian corporation.

This is, of course, an example of the complex international corporate structure which many American companies are developing abroad and is but one of several cases in Brazil. It would consequently be of material assistance to the Embassy if it could be advised whether any definite policy has been formulated by the Department

as to the extent to which protection should be accorded to American interests when so closely interwoven with other "foreign" interests and operating through local subsidiaries organized under local laws.

Although a number of British-owned or controlled companies would seem to be affected by the two Lage amendments, the only American interests which have approached the Embassy for assistance in the matter so far are the du Pont interests and then only after the local representative's attention was called to the pending legislation by a member of the Embassy staff as he was, from all indications, unaware of it. The language of the amendments is sufficiently vague so that it is not clear whether other American interests would be prejudiced although some, such as the manganese subsidiary of the United States Steel Products Corporation, holding mining properties, would probably fall under their provisions.

The Itabira Iron Mines concession, the local promoter of which is Mr. Percival Farquhar, an American citizen, and which has aroused much antagonism in nationalistic Brazilian circles, including the Lage interests, would likewise apparently be prevented, at least in part. Mr. Farquhar now claims that sixty per cent of the capital involved in the Itabira project is American although the parent organization is understood to be incorporated in Great Britain. In the past, Mr. Farquhar has several times attempted to secure the Embassy's aid in representations to the Brazilian authorities in behalf of his group but has always been vague as to his financial backing and refused to divulge its source.

Respectfully yours,

R. M. SCOTTEN

832.5034/35 : Telegram

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

WASHINGTON, June 7, 1937—5 p. m.

33. Your despatch No. 1383, May 19. You are authorized to leave with the Foreign Office an *aide-mémoire* concerning the pending bill, in which you will express the hope that in any resultant legislation the interests of American citizens in existing corporations will receive adequate protection.

HULL

832.5034/36

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

No. 1405

RIO DE JANEIRO, June 10, 1937.

[Received June 17.]

SIR: I have the honor to refer to the Embassy's despatch No. 1383 of May 19, 1937, and to the Department's telegram No. 33 of June 7,

5 p. m., both in regard to certain legislation pending before the Brazilian Congress, intended to prevent persons other than native-born Brazilians from holding stock in national industries vital to the national defense. There is transmitted herewith a copy of the *aide-mémoire* which I am leaving with the Acting Minister for Foreign Affairs this afternoon, in compliance with the instructions contained in the Department's telegram No. 33.

Respectfully yours,

R. M. SCOTTEN

[Enclosure]

The American Embassy to the Brazilian Ministry for Foreign Affairs

AIDE-MÉMOIRE

There has come to the attention of the Government of the United States of America the fact that a bill (No. 424 of 1936) which proposes to regulate the establishment and functioning of corporate organizations (*sociedades anônyimas*) in Brazil is now under consideration by the Chamber of Deputies. It has further been noted that among the amendments to the bill which have been presented are one providing that shares of stock in corporations intended for the carrying out of operations of interest to the national defense of Brazil, such as navigation, naval construction, siderurgy, electro-chemistry, mining and the manufacture of war material and explosives, shall be held solely and exclusively by native-born Brazilians, and another providing that the peremptory provisions of the bill will be applicable to all corporations now in operation.

The Government of the United States directs the Embassy to express the hope that, in any resultant or similar legislation, the interests of American citizens in existing corporations will receive adequate protection.

RIO DE JANEIRO, June 10, 1937.

832.5034/37

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

No. 1440

RIO DE JANEIRO, July 8, 1937.

[Received July 15.]

SIR: I have the honor to refer to the Embassy's despatch No. 1405 of June 10, 1937, concerning an *aide-mémoire* which was left with the Foreign Office in regard to pending legislation concerning ownership of Brazilian industries vital to the national defense. Under date of July 5th, the Foreign Office advised the Embassy in the form of a memorandum (copy and translation enclosed)⁶⁸ that the Ministry

⁶⁸ Not printed.

of Foreign Affairs will take whatever steps may be necessary to safeguard the rights of American citizens in existing Brazilian companies.

On July 6th the Chief of the Political Division of the Foreign Office, who drafted the enclosed memorandum, informed a member of the Embassy staff that subsequent to the receipt of the Embassy's *aide-mémoire* he had made several visits to the Chamber of Deputies in order thoroughly to familiarize himself with the pending legislation; that he had had conversations with many influential deputies concerning this matter; that it was now his definite impression that the legislation in question was considered entirely too drastic by a large majority of the members of the Chamber of Deputies and that it would unquestionably be killed. As regards the possibility of the presentation of similar legislation in the future, the Chief of the Political Division stated that, although this is entirely possible, he felt that existing rights and interests would, at all times, be taken into consideration and protected.

Respectfully yours,

R. M. SCOTTEN

[No further representations regarding the proposed legislation were made by the United States.]

GOOD OFFICES OF THE DEPARTMENT OF STATE IN OBTAINING THE ASSISTANCE OF THE AMERICAN NAVY IN THE BUILDING OF WARSHIPS IN BRAZIL

832.34/271

The Brazilian Chargé (Bueno do Prado) to the Secretary of State

[Translation]

WASHINGTON, January 16, 1937.

MR. SECRETARY OF STATE: Some months ago, Ambassador Oswaldo Aranha began confidential negotiations with the Department of State for the purpose of obtaining the assistance of the American Navy to the Brazilian Navy for the building of warships in Brazil.

2. As a consequence of those negotiations, a project was prepared between the Ministry of the Navy of Brazil and the Navy Department of the United States of America, through the American Naval Mission in Brazil,⁶⁹ for the building, in my country, of three destroyers of 1500 tons, with materials purchased in the United States of America, and using, for such purpose, plans furnished by the said American Navy Department.

⁶⁹ For agreement providing for a naval mission from the United States to Brazil, signed May 27, 1936, see Department of State Executive Agreement Series No. 94, or 50 Stat. 1403.

3. By the instructions I have just received from my Government, I am authorized to communicate to Your Excellency that the above mentioned project has been approved and at the same time to request the Department of State to use its good offices with the Navy Department in order that it may be put into execution and carried to a successful conclusion.

4. I should be very grateful to Your Excellency for the steps you may be good enough to take to that end.

I avail myself [etc.]

ABELARDO B. BUENO DO PRADO

832.34/272

The Secretary of State to the Brazilian Chargé (Bueno do Prado)

WASHINGTON, February 2, 1937.

SIR: In accordance with the request contained in your note of January 16, 1937, regarding your Government's desire to obtain the assistance of the Navy Department of the United States in certain construction work in Brazil, a copy of a translation of it was forwarded to the Secretary of the Navy. A hope was expressed that his Department might find it possible to comply with your Government's request.

In a reply dated January 28, 1937,⁷⁰ the Secretary of the Navy says that he takes pleasure in stating "that it will be possible for the Navy Department to comply with the Brazilian Government's request".

Accept [etc.]

For the Secretary of State:

SUMNER WELLES

832.34/282

Memorandum of Press Conference, June 26, 1937

At the press conference this morning, a correspondent asked the Acting Secretary, Mr. Welles, about the reported cooperation of the United States with Brazil in the construction of the destroyers for the Brazilian Navy. The Acting Secretary said that he had seen the newspaper report, and it was a matter which had been widely discussed in the press for several months, and that there was nothing new or confidential about it. He said that so far as the technical side was concerned the correspondent would have to inquire at the Navy Department. He added that it was his personal understanding that about two years ago the Brazilian Government constructed a navy yard at Rio de Janeiro and had under consideration the building of, he thought, three destroyers. We have had a naval mission there for

⁷⁰ Not printed.

some time, and they naturally turned to it for advice. At the Brazilian Government's request we sent down a technical man from the Navy Department to assist in the construction work, simply in a supervisory and consultative capacity. Regarding the supplying of plans for the destroyers, the Acting Secretary went on to say that that is a point on which the Navy Department would have to advise the correspondents, but that he was confident there was nothing confidential. Concerning the purchase of materials in the United States, the Acting Secretary said that there had been no understanding or definite commitment of any kind, but merely an expression of belief by the Brazilian Government that they could more readily purchase in the United States those materials unobtainable in Brazil. The Acting Secretary said he wished to emphasize the fact that the same type of technical assistance would be gladly supplied to any other American Republic asking for it.

CHILE

NEGOTIATIONS RESPECTING A PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND CHILE¹

611.2531/168 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, January 8, 1937—10 a. m.

[Received 10:35 a. m.]

4. Referring to my despatch No. 180, April 18, 1936,² Foreign Office officials have informally advised Embassy that the exchange of ratifications of the Chilean-French Convention of January 16, 1936³ will take place not later than January 16, 1937, which will cause our *modus vivendi* of September 28, 1931⁴ to lapse. The informal suggestion was added that by the exchange of notes we might arrange for the extension of the *modus vivendi* for 6 or 8 months or else until a Chilean-American trade agreement shall have been concluded.

PHILIP

611.2531/168 : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, January 14, 1937—5 p. m.

3. Your 3 [4], January 8, 1937.

(1) You are authorized, on assurance of reply in like terms, to address to the Minister for Foreign Affairs⁵ a note, preferably in substantially the following language:

"I have the honor to confirm to Your Excellency my understanding, reached in our recent conversations in behalf of the Government of the United States of America and the Government of the Republic of Chile, that the commercial agreement between the two Governments effected by exchange of notes, signed September 28, 1931, providing for reciprocal unconditional most-favored-nation treatment, shall continue in force notwithstanding the termination of the *modus vivendi*

¹ Continued from *Foreign Relations*, 1936, vol. v, pp. 312-324.

² *Ibid.*, p. 321.

³ Chile, *Tratados, Convenciones y Arreglos Internacionales de Chile, Chile-Francia, Santiago, 16 de enero de 1936* (Santiago, 1937), and France, *Journal Officiel*, February 16, 1936, p. 1962.

⁴ *Foreign Relations*, 1931, vol. i, pp. 926-927.

⁵ Miguel Cruchaga Tocornal.

between Chile and France, signed May 22, 1931; *Provided*, That the treatment hereafter accorded by the Republic of Chile to the commerce of the United States shall at no time be less favorable than that simultaneously accorded to the commerce of France.

The present agreement extending the term of the agreement of September 28, 1931, becomes operative as of today's date and shall continue in force until superseded by agreement between the two Parties or until terminated by either Party on written notice of not less than 15 days."

(2) If Chile refuses indefinite duration for this arrangement, you are authorized to agree to a limited term, as suggested in your telegram, and otherwise to modify the above phraseology as may be necessary to obtain concurrence, provided the essential objective of unconditional most-favored-nation treatment is not interfered with.

HULL

611.2531/169 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, January 22, 1937—3 p. m.

[Received 3:40 p. m.]

6. Department's 3, January 14, 4 [5] p. m. Two officials of the Chilean Ministry of Foreign Affairs recently have mentioned the receipt of cables from the Chilean Ambassador in Washington⁶ to the effect that I had been specifically instructed by the Department to propose a new *modus vivendi* which shall remain in force until superseded by a commercial treaty between the United States and Chile.

I understand the instruction received leaves me discretion in the matter and I have not yet broached its contents to the Minister for Foreign Affairs as my information now indicates that the French Parliament will not ratify the Franco-Chilean convention of January 16, 1936 in the near future. In such case our existing agreement of September 28, 1931 should remain in force.

I am carefully watching the situation and will at once inform the Department of any action taken.

PHILIP

611.2531/171

The Ambassador in Chile (Philip) to the Secretary of State

No. 477

SANTIAGO, January 23, 1937.

[Received January 29.]

SIR: Subsequent to my cable message No. 6 of January 22, 3 p. m., relative to an exchange of notes with the Chilean Government for

⁶ Manuel Trucco.

the purpose of extending the reciprocal unconditional most favored nation treatment now provided for by our agreement with Chile of September 28, 1931, I had a short interview with the Minister of Foreign Affairs.

I took advantage of this occasion to mention to Don Miguel Cruchaga that from both Señor Benjamín Cohen⁷ and Señor Alberto Serrano of the Foreign Office I had received intimations that the Chilean Ambassador in Washington had cabled his Government that instructions had been sent me by the Department to propose an exchange of notes to provide for reciprocal favored nation treatment. I said that Señor Cohen had stated moreover that the text of the agreement in question was to be so worded that it would remain in force until the ratification of a commercial treaty between the United States and Chile. I remarked that I did not understand the significance of these statements.

For the Minister's information I informed him that I was empowered to propose an exchange of notes for the purpose of extending the provisions of our existing commercial agreement should this become necessary owing to the ratification by the French Government of the Franco-Chilean Commercial Convention of January 16, 1936. I added that my present advices indicated that such ratification is most unlikely in the near future and I asked the Minister's opinion as to this.

Don Miguel Cruchaga said confidentially that he has been particularly anxious for me to propose an exchange of notes as this would be of great assistance to his Government in its *negotiations with the British Government*. He did not specify just what he meant by this. As to the question of the ratification by the French Government, the Minister said that the situation was somewhat obscure and he expected further reports from Paris. He admitted that should the French Government not ratify the treaty with Chile prior to February 8th next (not February 6th as stated in my despatch No. 474 of January 20, 1937⁸), the Convention could be continued in provisional effect, for a further period, by an exchange of notes with the French Legation.

To my question as to whether in such circumstances our agreement of September 28, 1931, would not continue in force, the Minister did not reply directly but said he would study the matter and let me know.

I said that in my note of April 18, 1936, I had conveyed on behalf of my Government the draft of a proposed *modus vivendi*⁹ which had never been accorded detailed comment by the Chilean Government. I

⁷ Director of the Diplomatic Department of the Chilean Ministry for Foreign Affairs.

⁸ Not printed.

⁹ *Foreign Relations*, 1936, vol. v, p. 318.

stated also that I have been much perturbed by the difficulties now being encountered by American export trade to Chile at the hands of the Board of Exchange Control of the Republic—restrictions which bid fair to affect that trade most disastrously. At the same time, I said, I would be glad to oblige the Chilean Government by making a proposal for an exchange of notes for the continuance of the existing mutual commercial agreement if such a course should prove necessary.

In the above connection I have to report that the First Secretary of the British Embassy has indicated a keen desire to keep me informed as to the progress of affairs between the French Legation and the Chilean Foreign Office in this matter. Mr. Cavendish Bentinck told me that the French Chargé d'Affaires had read to him the draft of a reciprocal note to the Chilean Government which proposed the extension of the provisional status of the Franco-Chilean Commercial Convention until it may be ratified by the French Government.

It is probable that this draft has been prepared in order to provide for the continuance in provisional effect of the treaty. I have not learned of the exchange of such notes as yet. The British Secretary seems convinced that France will not ratify the treaty at this time and appears to have wished to impress me with this fact.

I mentioned the situation to the British Ambassador who reiterated what he had previously told me—that the treaty negotiations with Chile have been carried on in London. He said that the Chilean Government has been most insistent upon a commercial treaty but that his Government has not desired to enter into one at this time—preferring an agreement by exchange of notes. He expressed his belief that the French Chamber will not ratify the treaty with Chile in the near future and said he believed the policy which his Government will follow will be to enter into no further agreement for the time being.

The Chilean Government would seem to be most anxious to be in a position to make public announcement of additional commercial treaties. It would appear to me also that Great Britain possibly may be seeking some special trade concessions from Chile in return for such a pact. But no information is available here yet on this point.

Respectfully yours,

HOFFMAN PHILIP

611.2531/173

The Ambassador in Chile (Philip) to the Secretary of State

No. 490

SANTIAGO, January 30, 1937.

[Received February 5.]

SIR: With reference to my despatch No. 480 of January 27, 1937,¹⁰ I have the honor to report that the Commercial Attaché to the Em-

¹⁰ Not printed.

bassy had a conversation on the 27th instant with Señores García¹¹ and Serrano of the Commercial Bureau of the Foreign Office. The appointment had been sought by the Chilean officials who displayed in the course of it a very marked desire that I agree to an exchange of notes providing for the renewal of our *modus vivendi*. While admitting that a ratification by the French Chamber of the Commercial Convention with Chile before the expiration of the provisional period fixed by Chilean law was doubtful, and that the United States would not lose its most-favored-nation advantages in any event, they yet were most insistent on the advisability of a new and prompt exchange of notes.

At the close of this conversation Señor Serrano handed to the Commercial Attaché a draft note which had been prepared in advance by the Foreign Office.

I beg to transmit herewith a copy and translation of this draft which I have no doubt the Department will not deem acceptable.

Briefly its provisions are as follows:

- (1) Most favored nation treatment is restricted specifically to customs treatment.
- (2) Neighboring countries are excepted from its provision to a far greater extent than in other temporary agreements which Chile has recently signed.
- (3) The definite commitment for the study of a permanent commercial agreement is included.

The manner in which this draft has been put forward, and its contents has confirmed my previous expectation that any form of note which I might have proposed under the Department's authorization would have been met with counter proposals of this nature.

The eagerness of the Chilean Foreign Office in this matter is somewhat difficult for me to understand. However, it would seem that it may be attributed to at least two causes: (1) a desire to bring Great Britain to the point of agreeing to negotiate a new commercial treaty by pointing to a similar understanding with the United States; and (2) as an asset in the March senatorial elections. In this latter connection, the public has been given to understand by the Government-inspired press that negotiations for commercial treaties with the United States and Great Britain already are under way.

Moreover, it has been announced that Don Miguel Cruchaga will soon resign his portfolio as Minister of Foreign Affairs and will become a candidate for election to the Senate. It may be that it would be considered useful in this eventuality to allude to such pending treaty negotiations among the accomplishments of Señor Cruchaga's term of office as Minister of Foreign Affairs.

¹¹ Desiderio García, Under Secretary of Commerce.

In view of the fact that there has been no indication yet of any relaxation of exchange restrictions as affecting export trade from the United States to this country, I would be glad to receive an expression of the Department's views in the matter of a new exchange of notes, should this prove essential. I particularly desire to be informed as to the Department's wishes regarding the possible reference to negotiations for a commercial treaty with Chile in such an exchange of notes.

I judge that the Chilean Foreign Office attaches considerable importance to the inclusion of such a reference.

Respectfully yours,

HOFFMAN PHILIP

[Enclosure—Translation]

Chilean Draft Note Pertaining to Provisional Commercial Agreement

SANTIAGO, . . February, 1937.

MR. AMBASSADOR: I have the honor to confirm to Your Excellency the terms of the provisional commercial agreement which our respective Governments have agreed to establish pending the negotiation of a definitive treaty of commerce, to wit:

1. The contracting parties 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.

There shall be excepted from the preceding provision the special treatment which the United States of America accords to its territories and possessions, to Cuba and the Panama Canal Zone and that which Chile may grant to limitrophe countries.

2. This provisional agreement shall have effect for one year from the 8th of next February, unless it is replaced by the definitive treaty of commerce referred to above, for the study of which both Governments engage themselves immediately to initiate negotiations.

I avail myself, etc. etc.

611.2531/174

The Ambassador in Chile (Philip) to the Secretary of State

No. 497

SANTIAGO, February 10, 1937.

[Received February 16.]

SIR: I have the honor to refer to my despatch No. 477 of January 27 [23], 1937, with particular reference to the report that reciprocal notes would be exchanged between the Chilean Foreign Office and the

French Legation extending the provisional effect of the Franco-Chilean Commercial Convention of January 16, 1936.

The First Secretary of the British Embassy, Mr. Bentinck, today gave me in confidence copies of the identical notes exchanged on February 4, between the French *Chargé d'Affaires* and the Chilean Foreign Minister. Owing to the fact that under the Chilean statute the President may provisionally extend a commercial treaty, pending ratification, for not longer than one year, and since such power has now expired, the notes concluded a new commercial convention, effective February 8, 1937, the text of which is identical to that of the agreement of January 16, 1936. Considering the Convention as signed anew, the President may now extend its provisional effect, pending ratification, for one more year. Copies and translations of these notes,¹² taken from the French text, accompany this despatch.

Since the Franco-Chilean Commercial Convention of January 16, 1936 and February 8, 1937 remains only provisionally in view, ratifications not having been exchanged, it would appear that the French *Modus Vivendi* of May 22, 1931¹³ has not yet officially been terminated. The United States-Chilean *Modus Vivendi* of September 28, 1931 would seem, therefore, to remain in force, under the interpretation given by the Chilean Foreign Office in its Memorandum of February 19, 1936.¹²

Respectfully yours,

HOFFMAN PHILIP

611.2531/174 : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, February 18, 1937—6 p. m.

6. Your despatch No. 497 of February 10, 1937. Although our *modus vivendi* of September 28, 1931, will apparently continue in force for some time, in deference to the express wishes of the Chilean Government, reiterated by the Chilean Ambassador here on two occasions, for the conclusion immediately of a new *modus vivendi*, this Government is willing to proceed with negotiations.

Taking the Chilean draft enclosed with your despatch No. 490 of January 30, 1937 as a basis, you are instructed to prepare the following text and present it to the Foreign Office as a counter proposal:

Strike out all of the language in the opening paragraph after the word "negotiation" and insert in lieu thereof the following: "of a

¹² Not printed.

¹³ League of Nations Treaty Series, vol. cxxiv, p. 31.

more comprehensive commercial agreement or of a definitive treaty of commerce and navigation”.

Article I, paragraph 1, is acceptable.

Omit all of the language appearing thereafter and insert in lieu thereof numbered paragraph 3 of the draft *modus vivendi* enclosed with the Department's instruction No. 69 of March 26, 1936.¹⁴ Then add the following paragraph:

“The Government of Chile agrees to impose no restrictions or delays on payments for any future imports from the United States.”

Add to the foregoing, numbered paragraphs 5 and 6 of the draft *modus vivendi* enclosed with the Department's instruction No. 69 of March 26, 1936, and complete the text with the following paragraphs:

“The agreements between the United States of America and the Republic of Chile signed September 28, 1931, shall terminate on the day on which the present agreement comes into force.

The present agreement shall come into force as of this day and shall continue in force until superseded by a more comprehensive commercial agreement or by a definitive treaty of commerce and navigation, or until denounced by either country by advance written notice of not less than 30 days”.

It is noted that the draft provisional agreement submitted by the Chilean Government restricts most-favored-nation treatment to tariffs alone. This draft is sufficient to assure equality of treatment for Chilean exports to the United States because this Government does not impose exchange restrictions. On the other hand, this draft does not insure corresponding equality of treatment for American exports to Chile because Chile does impose exchange restrictions which, moreover, are being applied at the present time with severe discrimination on certain categories of American goods. An undertaking by the Government of Chile to impose no restrictions or delays on payments for future imports from the United States would extend the equality of treatment to American exports, which this Government extends and desires to continue to extend to Chilean exports. It should be noted that this Government in suggesting such an undertaking is not seeking exclusive exchange advantages. It is assumed that in pursuance of this undertaking the Chilean Government would remove restrictions on exchange for imports from other countries which do not impose exchange restrictions against Chile. It would not affect the authority of the Exchange Control to restrict non-commercial remittances to such countries. Such a free system was apparently contemplated by the Chilean Government in the memorandum exchange proposal submitted by the Minister of Hacienda under date of March 27, 1934.¹⁵

HULL

¹⁴ *Foreign Relations*, 1936, vol. v, p. 316.

¹⁵ Not printed.

611.2531/178

The Ambassador in Chile (Philip) to the Secretary of State

No. 527

SANTIAGO, March 13, 1937.

[Received March 19.]

SIR: I have the honor to confirm the receipt of the Department's cabled Instruction No. 6 of February 18, 6 p. m., and to transmit with this a copy of a note to the Ministry of Foreign Affairs, dated the 22nd ultimo, and which encloses the text of a new *modus vivendi* between the United States and Chile as proposed by the Department.

I had hoped that before this I might have been in receipt of some definite statement from the Foreign Office as regards its acceptance of the proposed text.

However, the Department will understand that owing to the retirement of the Minister of Foreign Affairs and the subsequent distractions involved by the parliamentary elections of the 7th instant and resulting uncertainties as to changes in the Cabinet, there has been no real opportunity to discuss the matter with an authoritative official. Therefore, I have judged it best to adopt a waiting attitude.

I judge from comments made to me by minor officials of the Foreign Office that the Department's proposal was received with a certain sense of relief by the Chilean Government. I am not certain, however, that this was not due most largely to certain reference in the text to the prospect of an eventual treaty of commerce and navigation.

It has been reported to me that the Chilean Embassy in London has given the British Government to understand that negotiations are pending with the United States for such an instrument.

Although this information is not authoritative, I do know that Chile has pressed the advocacy of such a treaty with Great Britain for many months past and it is not unlikely that the Government would find it advantageous in that quarter to be able to point to the fact that similar negotiations with the United States were under way.

I am also under the impression that the Department would not object to affording Chile such indirect assistance should the latter accept a form of *modus vivendi* which would meet with its approval.

Minor officials of the Foreign Office here have commented to me upon the Department's draft in rather favorable terms. The desire has been expressed in these comments that we agree to certain changes in the text which would strengthen the outlook for a definite treaty of commerce and navigation to follow, etc.

At the present moment the resignation of the Minister of Hacienda and Acting Minister of Foreign Affairs¹⁶ is still in suspension, and

¹⁶ Gustavo Ross Santa Maria.

nothing definite is known yet as to the appointment of a successor in either office.

The Department will be promptly informed of any developments which may transpire in connection with its proposed form of *modus vivendi*.

Respectfully yours,

HOFFMAN PHILIP

[Enclosure]

The American Ambassador (Philip) to the Chilean Acting Minister for Foreign Affairs (Ross Santa Maria)

SANTIAGO, February 22, 1937.

EXCELLENCY: I have the honor to refer to my previous conversations with His Excellency Don Miguel Cruchaga Tocornal with regard to the substitution of a new *modus vivendi* to replace that of September 28, 1931 between our respective Governments.

I have the pleasure to inform Your Excellency that in deference to the expressed wishes of the Government of the Republic of Chile, reiterated on two occasions by the Ambassador of Chile in Washington, my Government has authorized me to submit for your consideration the draft of a *modus vivendi*, herewith transmitted, and which it has empowered me to effect by an exchange of notes immediately.

I hope that the accompanying draft will meet the approval of Your Excellency's Government.

Accept [etc.]

HOFFMAN PHILIP

[Subenclosure]

American Draft Note Embodying Provisional Commercial Agreement

SANTIAGO, . . February, 1937.

EXCELLENCY: I have the honor to confirm to Your Excellency the terms of the provisional commercial agreement which our respective Governments have agreed to establish pending the negotiation of a more comprehensive commercial agreement or of a definitive treaty of commerce and navigation, as follows:

1. The contracting parties 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.

2. In the event that the Government of the United States of America or the Republic of Chile establishes or maintains any form of quanti-

tative restriction or control of the importation or sale of any article in which the other country has an interest, or imposes a lower duty or charge on the importation or sale of a specified quantity of any such article than the duty or charge imposed on importations in excess of such quantity, it shall allot to the other country during any quota period a share of the total quantity of any such article permitted to be imported or sold at such lower duty or charge which is equivalent to the proportion of the total importation of such article which such other country supplied during a previous representative period, unless it be mutually agreed to dispense with such allocation.

3. The Government of Chile agrees to impose no restrictions or delays on payments for any future imports from the United States.

4. It is understood that the advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions, the Philippine Islands, or the Panama Canal Zone to one another or to the Republic of Cuba shall be excepted from the operation of this agreement.

5. Nothing in this agreement shall be construed as a limitation of the right of either country to impose on such terms as it may see fit prohibitions or restrictions (1) imposed on moral or humanitarian grounds; (2) designed to protect human, animal or plant health or life; (3) relating to prison-made goods; (4) relating to the enforcement of police or revenue laws; or (5) relating to the control of the export or sale for export of arms, ammunitions, or implements of war, and, in exceptional circumstances, all other military supplies.

6. The agreement between the United States of America and the Republic of Chile signed September 28, 1931, shall terminate on the day on which the present agreement comes into force.

7. The present agreement shall come into force as of this day and shall continue in force until superseded by a more comprehensive commercial agreement or by a definitive treaty of commerce and navigation, or until denounced by either country by advance written notice of not less than thirty days.

Accept, Excellency, the assurances of my highest and most distinguished consideration.

611.2531/178

The Secretary of State to the Ambassador in Chile (Philip)

No. 215

WASHINGTON, April 17, 1937.

SIR: Reference is made to your despatch No. 527 of March 13, last, concerning the negotiation of the new *Modus Vivendi* between the United States and Chile, and the relationship of these negotiations to a possible commercial agreement between Chile and Great Britain.

You are authorized to endeavor to ascertain from your British col-

league in Santiago, if you perceive no objection, whether the British Government in such an agreement would expect to include an article providing for equality of exchange treatment. You may inform him, in this connection, of the desiderata of this Government in the conversations which you have been conducting with the Foreign Office in regard to a *Modus Vivendi* between the United States and Chile.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

611.2531/179 : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, June 7, 1937—6 p. m.

21. Your despatch No. 585 of May 5.¹⁸ You are requested to present to the Minister for Foreign Affairs and, in your discretion, to discuss with the Minister for Finance, a memorandum incorporating the substance of the following:

"The American Embassy refers to the *aide-mémoire* of the Ministry of Foreign Affairs dated April 29, 1937,¹⁸ in which it is stated in the penultimate paragraph that the Government of Chile has made arrangements for certain of the officials of the commercial mission sent to Japan to proceed to Washington on their return from that country for the purpose of cooperating with the Chilean Embassy in negotiations for a commercial agreement with the United States.

The American Embassy has been directed to state that the Government of the United States will be pleased to explore with the Chilean officials upon their arrival in Washington the possibilities of a reciprocal trade agreement with Chile, which it is assumed would be of the kind which the United States has already negotiated with 15 countries and which it is now negotiating with other countries. These agreements comprise general provisions based upon the unconditional most-favored-nation principle, and schedules of tariff reductions and bindings. In this connection the Government of the United States would be glad to be informed, if possible before the beginning of such conversations, what in a general way the Chilean Government would expect the United States to grant Chile in a trade agreement; what in a general way the Chilean Government contemplates offering the United States in regard to tariff concessions; and particularly what kind of program the Chilean Government has in mind with regard to equality of application of trade and exchange control measures to American trade.

Concerning the statement in the *aide-mémoire* which refers to an agreement tending to 'develop and balance reciprocal interchange', the Government of the United States assumes that any arrangement which would be considered by the two Governments would be in harmony with Resolutions XLIV and XLVI adopted at the Inter-American Conference for the Maintenance of Peace at Buenos Aires last Decem-

¹⁸ Not printed.

ber,¹⁹ and Resolution No. V, on economic, commercial and tariff policy, approved by the Seventh International Conference of American States at Montevideo."²⁰

The Department requests that in your conversations on the subject with officials of the Chilean Government you make it clear that, as that Government is aware, the Government of the United States is definitely opposed to bilateral agreements seeking to balance trade and payments as between two countries and that it would, therefore, not be disposed to discuss balances of trade and of payments as a basis for any trade agreement.

HULL

611.2531/187: Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, July 1, 1937—noon.

[Received 12:55 p. m.]

31. Department's 26, June 30, 8 [5] p. m.²¹ Although the Minister of Foreign Affairs has assured me in reply to my suggestions that the Foreign Office would endeavor to prepare a reply to the Embassy's memorandum of the 9th instant [*ultimo*], I doubt if anything of much interest can be expected.

I have been informed confidentially that it has been decided here to make every effort to arrive at an understanding satisfactory to the United States but the present attitude seems to indicate the intention to await the outcome of the exploratory conversation by Señor García with the Department.

PHILIP

611.2531/193

The Ambassador in Chile (Philip) to the Secretary of State

No. 651

SANTIAGO, July 6, 1937.

[Received July 13.]

SIR: With reference to my cable message No. 32 of July 4, 6 p. m.,²² I have the honor to transmit herewith a copy and translation of the memorandum from the Ministry for Foreign Affairs, dated the 3d instant, therein cited.

¹⁹ Resolution XLIV, Equality of Treatment in International Trade, and 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 and 242.

²⁰ *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.

²¹ This telegram read as follows: "Please telegraph what, if any, reaction the Foreign Office has shown with respect to the memorandum." (611.2531/187a)

²² Not printed.

I assume that this memorandum has been prepared largely as a result of my inquiries as to whether a response to the Department's suggestions of June 7th would be forthcoming.

The absence from the text of the memorandum of specific comment upon the points raised by the Department, I attribute more to unpreparedness here and to the desire to await the primary outcome of Señor Desiderio García's conversations than to diplomatic subterfuge of any kind.

In my experience, the Chilean Foreign Office has been considerably handicapped in its economic and commercial policies by the authoritative and independent activities of the Ministry of Hacienda under the direction of Señor Ross. In the main I have been impressed by the apparent desire on the part of the Foreign Office to foster Chilean relations with the United States.

As I have reported previously, the actual situation shows very great improvement over that which existed a year ago and I am of the opinion that the attitude of the Foreign Office has been a contributory feature in this improvement.

Our main difficulties at this time result from Chile's exchange control and compensation treaties policy. Should it be possible to bring about an adjustment of the former which would eliminate all discrimination against imports from the United States, I think our position would be as satisfactory as conditions here permit.

Yours respectfully,

HOFFMAN PHILIP

[Enclosure—Translation]

The Chilean Ministry for Foreign Affairs to the American Embassy

MEMORANDUM

The Ministry of Foreign Affairs and Commerce has received the memorandum of the Embassy of the United States dated June 9 last, referring to the visit to be made in Washington by some members of the Chilean Commercial Mission, sent to Japan, the purpose of which is to cooperate with the Chilean Embassy in the negotiation of a Commercial Convention with the United States, and adding that it (the Embassy) has received instructions from its Government to state that it will be pleased to study the possibilities of a reciprocal agreement which it is presumed will be of the nature of those now negotiated by the United States with 15 countries and which include general provisions based on the "most-favored-nation" clause and list of tariff reductions and commitments. It adds that the Government of the United States would be pleased to be informed of that which the Government of Chile expects on the part of the United States, and particularly what program the Government of Chile contemplates with

regard to the equality of application of the measures of control of commerce and exchange to American commerce. The memorandum concludes by adding that the Government of the United States presumes that any agreement would be in harmony with the pertinent resolutions of the International Conference for the Maintenance of Peace of Buenos Aires and Resolution No. 5 of the Seventh International Congress of the American States at Montevideo.

In reply this Ministry is pleased to state that it has instructed Sr. Desiderio García, Sub-Secretary of Commerce, to stop in Washington and initiate conversations with representatives of the Government of the United States which will tend to establish the general lines on which a Commercial Convention which will definitely regulate reciprocal interchange can be arranged. It is the intention of the Government of Chile, precisely, to consider in the studies to be made the ideas referred to in the Memorandum of the Embassy of the United States, that is, the "most-favored-nation" clause and list of concessions annexed and also, without doubt, the conditions for the control of commerce and exchange. Further, the Government of Chile finds inspiration for its policy in this regard in the resolutions of the International Congresses to which the Embassy has made reference.

The Government of Chile hopes that from the conferences and meetings held with its Ambassador in Washington, on the occasion of the visit of the Sub-Secretary of Commerce, and with that official, there can be reached an agreement on general lines which satisfies the mutual desire of both Governments to strengthen and facilitate reciprocal interchange—an agreement which, having its basic points fixed as far as possible in Washington, would be concluded upon the return of the Sub-Secretary of Commerce by subsequent negotiations to determine its specific terms and the form in which it would be drafted.

SANTIAGO, July 3, 1937.

611.2531/193a

The Department of State to the Chilean Embassy

MEMORANDUM

The Department of State has deemed it a great pleasure to have had the opportunity of discussing with the Honorable the Under Secretary of Commerce²³ in a frank and informal manner the commercial relations between the United States and Chile. It is believed

²³ For about a week prior to the date of this memorandum discussions were conducted in the Department of State between Desiderio García, the Chilean Under Secretary of Commerce, and members of the staff of the Chilean Embassy, and Laurence Duggan, Chief of the Division of the American Republics, and various divisional assistants.

that these discussions have served to clarify the points of view of the Governments of Chile and the United States with respect to their commercial relations. It has been particularly gratifying to learn from the Under Secretary of Commerce that Chile entertains precisely the same objectives as those of the Government of the United States, namely the improvement and expansion of commercial relations between the two countries through a liberal trade policy which is based upon the principle of equality of treatment and designed to effect an ever increasing exchange of goods.

Although it is fully understood that the purpose of these discussions was not to reach binding commitments, nevertheless, as a matter of record, it is believed desirable to embody in a memorandum the scope of the discussions. It is the endeavor of this memorandum to set forth the principal points raised and views expressed during the discussions, but if any have been omitted through oversight, the Department of State would welcome a memorandum from the Under Secretary of Commerce indicating such omissions and making any other observations.

The Department of State set forth to the Under Secretary of Commerce its basic view concerning the improvement of international trade, namely, that a full and permanent solution of the trade and payments difficulties with which various countries are today confronted depends upon the removal of those excessive restrictions upon imports which have contributed with such magnitude to the economic depression. The Government of the United States is equally convinced that increases in imports through removal of excessive trade restrictions are certain ultimately to result in an increase of exports and that the contrary policy leads to a diminution of exports. This conclusion is believed to be especially valid when existing restrictions even although not so intended, result in some instances in preferential treatment for the products of one country as compared with the same or similar products of another country.

The Department of State informed the Under Secretary of Commerce that it was fully and sympathetically aware of the magnitude of the economic difficulties with which Chile had had to contend, and had been gratified to perceive the progress which Chile had made in overcoming these difficulties. The Under Secretary was reminded, however, that the foreign exchange control measures adopted by Chile during the economic crisis had imposed severe burdens on United States trade with Chile.²⁴ These hardships have been rendered particularly acute as a result of the preferential rates and amounts of exchange available for imports from countries with which Chile has compensa-

²⁴ See *Foreign Relations*, 1933, vol. v, pp. 103 ff.; *ibid.*, 1934, vol. v, pp. 1 ff.; *ibid.*, 1935, vol. iv, pp. 389 ff.; *ibid.*, 1936, vol. v, pp. 312 ff.

tion arrangements. There has been an especially wide margin of preference in the case of products such as automobiles, radios, etc., for which when imported from the United States, importers are obliged to pay as high as 35 pesos to the dollar, whereas the same or similar products originating in certain other countries can be covered at very much more favorable rates.

In contrast, the Government of the United States has continuously accorded to the imports of Chilean products unconditional most-favored-nation treatment and desires to continue that policy of equal and friendly treatment of Chilean trade.

Following the observations of the Department of State, the Under Secretary of Commerce stated that the Chilean Government was in basic accord with the views of the United States as to the necessity of removal of artificial trade barriers as an ultimate solution of present trade difficulties, and that the Chilean Government intended to proceed by progressive steps as rapidly as possible to the complete elimination of exchange restrictions. The Under Secretary stated, however, that it would not be practicable for Chile to proceed immediately to the elimination of these restrictions and that there would be of necessity a transitional period which he hoped would not be long, provided trade conditions continued favorable, during which the Chilean Government would progressively lighten the present controls.

With respect to the unfavorable exchange rates which importers of certain goods from the United States were obliged to pay in relation to the rates which importers of like goods from compensation-agreement countries were allowed, the Under Secretary of Commerce maintained that this was all a matter of availabilities. He stated that Chile does not grant preferential rates or amounts of exchange for imports from compensation-agreement countries. These rates and amounts are determined by supply and demand in accordance with the provisions of these agreements. He stated that, since in general there is available an abundance of exchange for the compensation-agreement countries, rates for imports from such countries are more favorable than for dollar exchange because the balance of payments is so adverse to Chile that dollar availabilities are insufficient despite the fact that there is made available for exports of the United States surpluses of exchange derived from economic relations with other countries and from Chilean gold production. The Under Secretary said further that the exchange restrictions in question bore on only a relatively small portion of American trade and asserted that, taking all the economic relations between the two countries into account, Chile considered that American interests as a whole received better treatment than those of any other country. He suggested that more dollar availabilities could be created if the American-owned indus-

tries in Chile could be induced to retain in that country for the time being a greater proportion of the proceeds of their sales abroad.

In regard to this suggestion the Under Secretary was informed that the Government of the United States had consistently taken the position that it could not assume any responsibility in respect of the allocation of exchange as between different American interests, and that for the same reason it did not regard it as proper to attempt to influence in any way the policies of American-owned industries in Chile in regard to exchange matters. As to availabilities, the Department of State declared that recent reports indicated that there were at the present time sufficient dollar availabilities at rates more favorable than those now established by the Exchange Control Commission for certain categories of articles, and that previous shortages had apparently occurred because of the restrictions on exchange resulting from compensation arrangements with other countries and the fact that the exchange rate of the peso was not placed at its natural point, i. e., a rate which would have resulted from the free operation of supply and demand.

It was said to the Under Secretary of Commerce that the existing inequality of treatment in exchange matters was a result in large measure of the compensation arrangements which Chile had entered into with other countries. In this regard the Under Secretary of Commerce stated that Chile did not consider these arrangements as a sound basis for trade but had been forced to accept them in order to maintain access to important markets for Chilean products. The Under Secretary said that Chile had striven tenaciously to obtain provisions in those compensation agreements which would protect the copper and nitrate industries and thereby especially benefit American interests by providing that a considerable portion of Chilean exports of these commodities should be paid for in free currency. He asserted that the Chilean Government thereby defended American interests as much or more than its own.

The Under Secretary stated that if these countries had succeeded in imposing, as they endeavored to, a régime of complete compensation on sales of nitrate and copper, the foreign exchange situation would have been very much worse, both for the United States and Chile. The Under Secretary of Commerce was reminded, however, that while Chile was acceding to the desires of certain countries importing Chilean nitrate in entering into compensation agreements, the United States, which was receiving considerably more Chilean nitrate than all of such countries combined, was imposing no restrictions upon the free importation of this product into the United States.

The Department of State heard with much gratification the statement by the Under Secretary of Commerce that the Chilean Govern-

ment had the intention to discontinue exchange control as rapidly as circumstances may permit. In accordance with this expression of policy, the Department of State suggested to the Under Secretary of Commerce various steps that might be taken at this time to ameliorate the situation. Among such measures were the following:

1. To permit the category of articles regarded as not indispensable to be imported into Chile from countries not having compensation agreements to be covered in a free market at rates of exchange to be determined by the operation of supply and demand, this free market to be supplied by (1) the production of gold in Chile, (2) all available exchange other than that created by Chilean exports, and (3) exchange derived from Chilean exports when not required to pay for imports of necessary articles. It may be observed in this regard that the Department of State does not see how this could serve to increase prices in Chile for indispensable imports from the United States and other countries (Peru, Cuba, Colombia, Mexico, et cetera) making their trade settlement in dollars, which was the principal objection advanced by the Honorable the Under Secretary of Commerce to the complete abolition at this time of exchange control.

The Under Secretary pointed out that this proposal *a*) might lead to the increased sale of exchange by exporters in the free market rather than to the exchange control authorities, forcing them to adopt very strict control measures difficult of enforcement when, on the contrary, the Chilean policy is progressively to lighten all restrictions on exchange transactions; and *b*) might curtail temporarily the production of gold which the Chilean Government desires to maintain at present levels for the time being; the Chilean Government having adopted the present system of gold purchases with the sole object of increasing the means of payment for automobiles, radios, et cetera, from the United States. It was pointed out to the Under Secretary that *a*) other countries have successfully maintained a system such as that suggested and *b*) the subsidization of the marginal production of gold was in effect a special surtax on imports of United States goods.

、 The Under Secretary said that he would be pleased to present the views of the Department of State to the attention of his Government. He then stated that he had a plan which he would like to suggest for the consideration of the Department of State and which might serve to ameliorate the restrictions on United States trade during the transitional period. His plan envisaged the gradual reduction of the existing margin between the gold exchange and the export draft rates until the former approximated the latter. This effect would be accomplished in three ways: *a*) by reducing the handling charges and the price paid for gold; *b*) by making available as and when conditions permit exchange not derived from the proceeds of exports or from gold; and *c*) by the application to so-called luxury products of

any excess of exchange at the export draft rate. The Under Secretary stated that the possibility of reducing the sale price of gold exchange is, however, conditioned by the necessity of amortizing losses sustained by the gold-buying authority during a several-months period prior to October 1936 when gold exchange for imports of automobiles and radios was provided at the rate of 26 pesos to the dollar.

The Department informed the Under Secretary that it would welcome any plan which would promptly and systematically remove the discriminations now suffered by United States interests and which would thus pave the way to attainment of the objective of the complete elimination of exchange and other abnormal restrictions on United States trade.

2. To publish all regulations pertaining to exchange control procedure at reasonable periods in advance of effective dates and to administer such control in a manner which would give complete equality of treatment as among the applicants for the same type of exchange.

The Under Secretary of Commerce stated that it must be remembered that under a system of exchange control, it is often necessary to make quick decisions but that he would be glad to suggest to his colleagues in Santiago the desirability of improving the administration of exchange control.

3. In the establishment and administration of import quotas, to base quotas entirely upon imports during previous representative periods and to publish not only the quotas themselves but also all regulations with respect to their administration at a reasonable time in advance of their effective dates.

The Under Secretary of Commerce said that he saw no difficulty in this suggestion, since this seemed to be exactly what the Chilean Government was doing now.

4. Furthermore, it would be deeply appreciated if the Chilean Exchange Control authorities would make available to the United States Embassy in Santiago, in confidence if preferred, a statement of both receipts of foreign exchange, and the disposition thereof, by countries; the statement to indicate for each country the classes of payments for which the exchange was provided.

The Under Secretary of Commerce agreed that this would be a desirable procedure and said that he would be glad to present this suggestion to his Government.

As a suggestion for the improvement of commercial relations between Chile and the United States, the Under Secretary of Commerce presented informally a tentative outline of a commercial accord between the two countries, including tariff concessions, to operate until such time as a more comprehensive trade agreement might be concluded.

The Under Secretary of Commerce was informed that his suggestion opened up interesting possibilities and that it would be given the most careful study; also that the Department of State was pleased to note that many of the provisions of the suggested agreement contained the broad principles upon which it was the policy of the Government of the United States to base its reciprocal trade agreements with other countries. He was informed, however, that the United States could grant tariff concessions of the type desired solely through the instrumentality of a trade agreement made pursuant to the forms of procedure established under the Trade Agreements Act of June 12, 1934,²⁵ as renewed March 1, 1937,²⁶ requiring, among other things, public announcements and hearings. The Department of State also said to the Under Secretary of Commerce that in the event that the Chilean Government would take steps to grant equality of treatment to American trade with respect to exchange matters, and would indicate its acceptance of the unconditional most-favored-nation principle as the basis for a reciprocal trade agreement, the Government of the United States would be happy to explore with the Chilean Government the possibility of entering into negotiations for such an agreement.

WASHINGTON, July 16, 1937.

625.5131/97a : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, August 14, 1937—2 p. m.

32. We are informed that the Franco-Chilean commercial convention of January 16, 1936, has received legislative approval in France. Without disclosing your interest to the Foreign Office, please ascertain discreetly the legislative status of the convention in Chile.

HULL

625.5131/99 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, August 18, 1937—3 p. m.

[Received 4:22 p. m.]

51. My 48, August 16, 1 p. m.²⁷ The Embassy is just informed by French Chargé d'Affaires that he has received today, by air mail, instructions to the effect that French-Chilean commercial convention of January 16, 1936 has been approved by the French Senate. He is

²⁵ 48 Stat. 943.

²⁶ 50 Stat. 24.

²⁷ Not printed.

instructed to effect the exchange of ratifications here and he expects this will be done in the course of a few days. He expresses regret for his misleading statements of the 16th instant due to his lack of information.

An understanding with the Chilean Government in the matter of most-favored-nation treatment of our imports from the date of exchange of ratifications is urgently required. Am I authorized to approach the Minister for Foreign Affairs on the subject?

PHILIP

625.5131/99

The Secretary of State to the Ambassador in Chile (Philip)

No. 261

WASHINGTON, September 8, 1937.

SIR: The Department has received your telegrams no. 48 of August 16, 1 p. m.,²⁸ no. 51 of August 18, 3 p. m., and no. 53 of August 20, 2 p. m.²⁸ relating to the time to be fixed for the entering into effect of the pending commercial convention between Chile and France. It is noted that this entry into effect will probably take place about the end of October.

You are requested to inform the Department whether, in the event that the existing *modus vivendi* should expire, there are any legal obstacles which would prevent the Chilean Government from continuing to extend most-favored-nation treatment to the United States. The Department desires to know also in what other possible respects an understanding with the Chilean Government in the matter will be urgently required upon the exchange of ratifications as stated in the last paragraph of your telegram no. 51 of August 18 last.

Please discuss the question of the continuance of most-favored-nation treatment of American trade with the Chilean Minister for Foreign Affairs and report by air mail the results of your interview and investigation.

Very truly yours,

For the Secretary of State:
HUGH R. WILSON

611.2531/205

The Ambassador in Chile (Philip) to the Secretary of State

No. 714

SANTIAGO, September 17, 1937.

[Received September 23.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 261 of the 8th instant relative to the anticipated

²⁸ Not printed.

ratification of the Franco-Chilean Commercial Treaty of January 16, 1936, and its effect upon our most-favored-nation rights in Chile.

In its instruction the Department requests me to discuss the question of most-favored-nation treatment of American trade with the Foreign Minister.

I beg to report that I have at no time received the impression that the Chilean Government would be disposed to create difficulties in the matter of the continuance of our most-favored-nation treatment in the event of the ratification of its new treaty with France which will automatically bring about the cancellation of the existing *modus vivendi* between the United States and Chile.

The urgency of the situation referred to by me lies in the necessity for some definite understanding between our Governments that the most-favored-nation treatment stipulated in the *modus vivendi* will not lapse when the new treaty with France is ratified.

Although sufficient statistical information is not available to determine the exact amount of American goods imported into Chile under reduced duties provided for in the French and other commercial treaties, the Commercial Attaché to the Embassy informs me that he estimates at approximately \$330,000, United States currency, the amount that would be affected by the withdrawal of most-favored-nation treatment from the United States. This estimate has been based partly on trade estimates although official import statistics have been employed wherever applicable.

Iron and steel products are the two largest groups of imports which would be affected. The Commercial Attaché also states that, in the first case, Germany is a far more serious competitor than France and, in the second case, Japan and Germany are both important competitors in addition to France.

Treaties now in force between Chile and Germany and between Chile and Japan give those countries most-favored treatment. It is of obvious importance, therefore, that United States products receive equal tariff consideration.

In the circumstances, it would seem but necessary for the Department to decide what procedure it prefers to follow in the attainment of this end. I have assumed heretofore that a fresh exchange of notes here to provide for the continuation of most-favored-nation treatment under the conditions which will supervene as a result of the ratification of the new Franco-Chilean Treaty would be the means favored by the Department. However, as I seemed to lack the necessary authorization, I have scrupulously avoided all mention of the subject in my conversations with Chilean officials. At the same time, it was reported to me several days ago by the Commercial Attaché that, from his informal talks with Don Desiderio García, he had inferred

that the Chilean Government would be glad to negotiate a new *modus vivendi* whenever I should intimate such a desire on the part of the Department.

I have noted that the Department in its above-acknowledged instruction authorized me only to discuss the question of the continuation of most-favored-nation treatment with the Minister of Foreign Affairs and that no allusion was made by it to the possibility of a new *modus vivendi*.

In the belief, therefore, that the Department may not favor the authorization for an exchange of notes to this effect, I confined my remarks to the Foreign Minister, in an interview on the 16th instant, to a discussion of the situation as it will exist after the anticipated ratification of the French Treaty.

I inquired whether the Chilean Government would be prepared to assent to a continuation of most-favored-nation treatment by mutual accord only, until the terms of a commercial treaty with the United States may be agreed upon.

Señor Gutiérrez²⁹ said that, in his personal opinion, this would seem to be feasible and the most simple method of treating the situation. He added, however, that in order to give me his official opinion in the matter he would be obliged to confer with the specialists in his Ministry.

With regard to the question of a possible *modus vivendi*, I beg to mention the fact that the British Government evidently has proceeded on the assumption that the expiration of its *modus vivendi*, also based upon the Franco-Chilean *modus vivendi* of May 22, 1931, will precipitate an anomalous situation for British trade. As already reported to the Department, the British Ambassador took energetic steps with the Chilean Foreign Office to assure the postponement of the pending ratification with France until the end of October next. During this interim I understand the British Government will open negotiations with Chile for a new commercial treaty.

Although the Foreign Minister has not yet informed me of the result of his inquiries following upon our conversation of the 16th instant, I feel reasonably confident he will suggest that a fresh exchange of notes to extend the most-favored-nation treatment (as was necessary in May 1931) until the negotiation of a commercial treaty, will be desired by his Government.

I have not yet ascertained that there is any provision in the Chilean laws which would prevent that Government from granting most-favored-nation treatment by mutual verbal accord. But the Department is aware that during the long period from 1851 to 1931, when such an arrangement existed, Chile was in a position to accord a gen-

²⁹ José Ramon Gutiérrez Alliende, Chilean Minister for Foreign Affairs.

eral guaranty for such treatment. This policy was definitely changed in 1931 with the advent of the French and other commercial agreements.

The present intention of the Government seems to be to effect a gradual reduction of the gold exchange rate, in order to fulfill its assurances in the matter of the abandonment of its exchange control policy. It is generally considered that this process will cover a period of approximately one year. Therefore, if this intention is carried out, there will continue to exist discrimination against American trade during that period. In such case the negotiations for a treaty satisfactory to the Department may be protracted, or delayed, and my opinion is that it will be desirable, if not strictly essential, to confirm the most-favored-nation treatment for our commerce in general by a simple exchange of notes with the Chilean Government. It is my understanding that the previous suggestions by the Department as regards the text for a *modus vivendi* are deemed to have been more or less superseded by the assurances received from Don Desiderio García last summer.

There are at present taking place informal conversations by the Commercial Attaché with Señor García for the purpose of studying a suggestion by the latter of a means to hasten the abandonment of the gold exchange control policy of his government. As soon as anything tangible arises from these conversations I will at once inform the Department.

Respectfully yours,

HOFFMAN PHILIP

611.2531/206

The Ambassador in Chile (Philip) to the Secretary of State

No. 723

SANTIAGO, October 1, 1937.

[Received October 7.]

SIR: I have the honor to advert to despatch No. 714 of September 17th last relative to the continuance of most-favored-nation treatment of American trade in Chile after the exchange of ratifications of the pending commercial agreement between Chile and France.

Not having received any word from the Minister of Foreign Affairs as a result of our conversation of September 16th, I mentioned the subject to him again on the 28th ultimo.

Señor Gutiérrez stated that the intervention of the annual ceremonies connected with the national celebrations following September 18th had prevented him from devoting his attention to the subject of my inquiries.

Today, the 1st instant, I sought another interview with the Foreign Minister and he handed me a memorandum of which I beg to transmit

a copy and translation herewith. I have learned confidentially that this memorandum has been prepared for the Minister by Don Desiderio García, the Under Secretary of Commerce.

The document of February 19, 1936,²¹ mentioned in the above memorandum, confirms the extension of most-favored-nation treatment to American trade until the formal ratification of the Franco-Chilean commercial treaty of January 16, 1936.

Señor Gutiérrez said that, after consulting with his staff, he finds an exchange of notes to be the only practicable method of providing for the continuance of most-favored-nation treatment of American trade in the circumstances. He added some remarks as to the appreciation by his Government of the patient and friendly attitude of the Department and of myself throughout the situation by which Chile had been confronted during the past two years, and expressed the desire to arrive at a lasting solution of the existing difficulties prior to my departure from Chile.

I suggested to the Minister that some time may elapse before the final text of a commercial treaty is agreed upon by our Governments and that it might be preferable to refrain from employing the word "immediately", mentioned in his memorandum, in the text of a proposed exchange of notes, and to state instead that most-favored-nation treatment will be mutually extended until the signing of a commercial treaty between them. At the same time, I suggested that the proposed notes might embody a mutual assurance to the effect that no discrimination will be practiced by either Government against the products of the other by the imposition of arbitrary exchange rates, or other exchange control measures.

Señor Gutiérrez said he would take my suggestions under consideration and that he would communicate with me shortly in regard to them.

I beg to report confidentially that the conversations of the Commercial Attaché to the Embassy with Don Desiderio García to which I have alluded previously seem to have reached a promising stage. The proposal by Señor García for a prompt abandonment of the existing arbitrary control of exchange rates was premised upon a means of continuing the purchases of Lavadero gold by the Government from Chilean producers at the present rate of 26.85 pesos to the dollar.

Obviously, this would be impossible when the flat rate of 25 pesos to the dollar goes into force. Señor García states that the maintenance of the Lavadero gold purchases is of very great necessity to the Government. In addition to the surplus required for actual gold purchases, the Government would require an additional sum of approximately 1.15 pesos to the dollar for the operating expenses of its

²¹ Not printed.

Lavadero Gold Bureau—making a total of approximately three pesos to the dollar above the proposed rate, for all exchange, of 25 pesos to the dollar.

Señor García's proposal consists of raising the import duties on automobiles to the basic rate which existed until some three years ago, or 33 $\frac{1}{3}$ per cent. It is estimated that such a step would increase the revenues by approximately ten million pesos annually and that this sum would enable the Lavadero Gold Bureau to continue its purchases of domestic gold at the existing rate. Should this step be decided upon, the Government could proceed at once to reduce the exchange rate of the gold peso to twenty-five to the dollar, and thus eliminate the objectionable control of exchange, without the long delay involved by its present system of gradual reductions at intervals of several months.

In effect, the raising of the automobile duties and the simultaneous elimination of the arbitrary exchange control would have the effect of greatly reducing the prices of American automobiles in this country and should stimulate these imports at the expense of those produced by the compensation treaty countries.

I may mention also, in this connection, that it has been reliably reported to me that the Government will most probably raise the customs duties on these and some other imports shortly, in any event.

The subject of Señor García's proposal has been treated in strict confidence by the Embassy at his request. I understand that he has obtained the approval of the customs and other minor officials in its regard and that he is today submitting the proposal to the consideration of the Minister of Hacienda.

I beg to request an expression of the Department's opinion regarding the enclosed memorandum from the Minister for Foreign Affairs.

I will at once communicate any new developments which may transpire in the matter of Señor García's proposal.

Respectfully yours,

HOFFMAN PHILIP

[Enclosure—Translation]

The Chilean Ministry for Foreign Affairs to the American Embassy

MEMORANDUM

On May 22, 1931, there was signed in Santiago a Provisional Commercial Convention with France which included a list of products of that nation which would enjoy a preferential tariff rate.

As no agreement existed with the United States which would enable it to benefit by these advantages, the Government of Chile, inspired by the object of avoiding that the commerce of the United States be placed under circumstances inferior to those of other nations, arranged

with (the United States) a Commercial *Modus Vivendi* by an exchange of Notes dated in Santiago on September 28 of the same year.

In this *Modus Vivendi*, which is in force at this date, both Contracting Parties reciprocally granted each other most-favored-nation treatment, and the Republic of Chile grants the commerce of the United States, from the 22nd of May of that year, the reduced duties applied to merchandise produced in France by virtue of the Convention signed with that nation on that date.

The period for which the *Modus Vivendi* would be in force was established under its number 3) which states that it shall be in effect as long as the above mentioned *Modus Vivendi* with France is in force, reserving the right to denounce it voluntarily with 15 days notice.

Next, on January 16, 1936, the Government of Chile signed with the Government of France a Commercial Treaty which states in its 12th Article: "The provisions of the present Agreement replace those of the *Modus Vivendi* of May 22, 1931, which shall be derogated from the date on which the present Convention enters into effect."

The Congresses of Chile and of France have already approved this Convention and it is now ready for the exchange of the respective ratification instruments, after which it shall definitely be in force and the *Modus Vivendi* with the United States, in accordance with the stipulations, shall no longer be effective.

When the Treaty with France was signed, a Memorandum dated February 19th was handed to the Embassy of the United States, pointing out the situation which would be created for the commerce of that nation once the existing instrument ceased to be effective and manifesting the willingness of the Government of Chile to negotiate immediately a Convention to replace it.

Undoubtedly unavoidable circumstances have kept the Government of the United States from achieving this end before now. The Government of Chile has desired to negotiate an Agreement of broader scope and of a permanent nature, as is fitting in view of the importance of reciprocal commercial traffic.

However, in view of the necessity of placing in effect the Treaty with France and the short time which this would leave for negotiations, it is believed that it would be most appropriate to establish, by an exchange of Notes, the continuation of reciprocal most-favored-nation treatment and the obligation of initiating immediately the negotiations for the formulation of a definite Commercial Agreement.

In this manner the commerce of the United States would not suffer the disadvantage in its competition in the Chilean market which would affect it once the existing *Modus Vivendi* is rendered ineffective by the enforcement of the new Treaty with France. Lacking an instrument, even though it be of the provisional nature suggested, the Gov-

ernment of Chile would have no means of giving the United States most-favored-nation treatment, and the latter consequently could not benefit by the preferential tariffs granted to third nations.

SANTIAGO, September 30, 1937.

611.2531/206 : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, October 28, 1937—7 p. m.

40. Your despatches 714 and 723 of September 17 and October 1, 1937.

(1) Using as a basis the Department's counter proposal of February 18, 1937, the text of which you transmitted to the Ministry of Foreign Affairs on February 22, 1937 [Enclosure to your despatch No. 527 of March 13, 1937],³² you are requested to endeavor to conclude as soon as possible, a new *modus vivendi* to replace the existing exchange of notes.

(2) Considering that the automobile quota is expected to be abolished, the Department feels that Chile should have no serious difficulty in agreeing that future quotas shall be allocated on a proportionate share basis. Hence the Embassy should use its best efforts to have numbered paragraph 2 of the aforementioned draft accepted.

(3) You may propose to the Foreign Minister, if you perceive no objection, the following language in lieu of that appearing in numbered paragraph 3:

“(a) The contracting parties respectively agree to accord unconditionally no less favorable treatment with respect to rates of exchange, and taxes or surcharges on exchange transactions, in connection with payments for or payments necessary and incidental to the importation of articles the growth, produce or manufacture of the other country than is accorded in connection with the importation of any article the growth, produce or manufacture of any third country.

“(b) The Government of Chile undertakes to abolish, as soon as possible, all forms of exchange control affecting the transfer of payment for articles the growth, produce or manufacture of the United States.”

You may mention to the Foreign Minister that the second part of the foregoing is less comprehensive than both the proposal of the Foreign Office embodied in its memorandum of March 16, 1934,³³

³² Brackets appear in the original.

³³ Not printed; for summary, see telegram No. 33, March 17, 1934, 3 p. m., from the Ambassador in Chile, *Foreign Relations*, 1934, vol. v, p. 16.

and the draft agreement of March 27, 1934,³⁴ which was agreed to in principle by the Chilean Government. You may also cite the first paragraph of the note of the Chilean Government dated July 5, 1937,³⁵ which declares that the Chilean Government considers the existing commercial restrictions as emergency measures "whose final elimination constitutes the true object of its commercial policy."

In view of the expected abolition of the discriminatory gold exchange rate, this Government hopes that the foregoing will be acceptable to the Chilean Government. If, however, these provisions appear to be impossible of acceptance, you are authorized to negotiate with a view to reaching, subject to the Department's approval, the best agreement possible in respect of exchange.

(4) In the course of your conversations, you may say that as soon as American trade is accorded equality of treatment in Chile, this Government would be ready to explore the possibilities of entering into negotiations for a reciprocal trade agreement.

(5) The word "agreements" in the first line of numbered paragraph 6 should be changed to read "agreement".

Please report the results of your endeavors by cable and await further instructions before signing.

HULL

611.2531/211 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, October 29, 1937—10 p. m.

[Received October 30—2:35 a. m.]

65. Department's 40, October 28, 7 p. m. I had a conference this morning with the Foreign Minister, García and Bohan.³⁵ It was agreed that García, Bohan and Randall³⁶ would discuss the Department's proposals this afternoon. In the meantime García took up the question of the Department's proposed text for paragraph 3 of the above cable with the Ministers of Foreign Affairs and Hacienda. The result of the final conference is as follows:

Paragraph 3 of Department's telegram—García remarked that the uncertainties of the world situation and commitments under compensation render it impossible for the Government to acquiesce in the Department's draft. He submitted as a result of his conference with the Ministers the following substituted text which translates as follows:

Within the limits fixed by existing exchange availabilities the Government of Chile will accord the most favorable treatment to the com-

³⁴ Not found in Department files.

³⁵ Merwin L. Bohan, Commercial Attaché.

³⁶ Harold M. Randall, Assistant Commercial Attaché.

merce of the United States and will make every effort to avoid the imposition of exchange control measures demanding the use of exchange at rates exceeding those which would result from the free play of market supply and demand.

García tentatively suggests the inclusion in the notes of a clause providing for the establishment of a modern committee such as is now established with Peru and Ecuador. In my opinion this might possibly provide a safeguard against precipitate action by the control commission, paragraph 4 of Department's counter proposal of February 18, 1937. The Treaty Commission of the Foreign Office yesterday decided to except the three frontier countries from future treaties embodying most favored nation treatment. The Embassy is disinclined to accept this view but would appreciate the Department's reaction.

It would appear that all other paragraphs of the Department's counter proposal of February 18, 1937 will be acceptable, although there remains a possibility that the Foreign Office may propose the inclusion of an immediate consideration of a definitive treaty.

PHILIP

611.2531/212 : Telegram

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

SANTIAGO, November 2, 1937—5 p. m.

[Received 5:34 p. m.]

69. British Embassy states London Foreign Office recently learned that ratifications Franco-Chilean Treaty will be exchanged Santiago November 19. London consequently decided to sign brief *modus vivendi* with Chile omitting exchange clause with intention of negotiating a full treaty during coming months. London now notified by Chilean Government latter wishes also include in British *modus vivendi* the exchange clause drafted by García reported in Ambassador Philip's telegram No. 65, October 29, 10 p. m. British idea still is to sign brief *modus vivendi* without exchange clause unless a really strong clause is offered by Chile. Ambassador Philip asks me to report to Department his opinion that a clause containing a slightly stronger assurance than García's last offer might possibly be accepted by the Chilean Government. My view Department might make early counter-proposal on García clause, with the possibility that something worth accepting might be worked out before November 19, but I should not shrink from signing merely a brief last minute *modus vivendi* containing simply most-favored-nation clause on tariff rates and quotas, unless Chilean exchange clause offers during next fortnight are unexpectedly favorable. This would obviate feeling by

Chile that the exchange situation had been cleared up, and would leave an impression that something basic must still be done. My impression exchange situation could well be dealt with in conjunction with negotiations for full treaty, as Chileans have at least a fairly strong desire for such a treaty to peg nitrate on free list, et cetera.

Commercial Attaché and Ambassador favor accepting and including in *modus vivendi* whatever best offer may be obtainable prior to Franco-Chilean exchange of ratifications, in order to give Chilean Foreign Office some hold on Exchange Control Commission. They fear that full treaty negotiations may be indefinitely delayed or come to nothing. I still favor omitting exchange clause from *modus vivendi* unless the Chileans make a much better offer; and believe there is a real chance for a broader settlement in relatively near future. The British seem to have the same ideas as I had reached.

FROST

611.2531/216

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

No. 747

SANTIAGO, November 5, 1937.

[Received November 11.]

SIR: I have the honor to refer to the statement made by Señor Pereira⁸⁷ of the Chilean Embassy, during a conference held in the Department on October 21st with officials of the Division of American Republics, to the effect that the Chilean Government took the view that foreign exchange provisions would more properly be the subject of negotiation for a trade agreement than for a *modus vivendi*. It is understood that the Department has been disposed, on the other hand, to feel that an exchange clause might well be included in a *modus vivendi*, if such an instrument is concluded prior to the entry into permanent effect (at present set for November 19, 1937) of the Franco-Chilean commercial treaty; since otherwise most-favored-nation clauses respecting tariff rates and import quotas might be rendered nugatory by Chilean exchange manipulations.

The Chilean Foreign Office has now reached the opinion that the inclusion of an exchange clause in the *modus vivendi* would be advantageous. The Commercial Attaché of the Embassy, who has handled the negotiations, has stressed informally the argument that the signature of an international agreement (a *modus vivendi*) pledging Chile to adopt a favorable course on exchange would strengthen the hands of the Foreign Office in dealing with the Exchange Control Commission. It has repeatedly been true that the Chilean Foreign

⁸⁷ C. Manuel Pereira, First Secretary of the Chilean Embassy.

Office has been disposed to recognize the justice of American complaints with regard to exchange, and yet has been unable to secure appropriate action here. The Commercial Attaché feels that an exchange clause engaging Chile's word will to some extent create legal rights and responsibilities on the part of the Foreign Office which will be helpful; and the Foreign Office appears to be rather caught with this possibility.

It is possible, as Ambassador Philip stated in my telegram No. 69 of the 2nd instant, that the Foreign Office might even go so far as to approve a more satisfactory clause than that furnished in the Ambassador's telegram No. 65 of October 29, 10 p. m. The Commercial Attaché has drafted a clause which he feels might be secured, or serve as a basis for Chilean concessions, as follows:

"The Government of Chile undertakes to accord, within the limits fixed by the actual amount of exchange available, the most favorable possible treatment with respect to rates of exchange, and taxes and surcharges on exchange transactions, in connection with payments for or payments necessary and incidental to the importation of articles the growth, produce or manufacture of the United States and, in no case, will place any commodity or group of commodities the growth, produce or manufacture of the United States in an artificially adverse position in respect to a similar commodity or group of commodities the growth, produce or manufacture of any third country nor impose 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."

The last portion might be effective in guarding against the recurrence of measures such as the lavadero gold scheme in connection with the purchase of the so-called luxury articles from the United States.

I should personally see no harm in the incorporation of some such provision in a *modus vivendi* signed on or just before the 19th instant if the intended Franco-Chilean exchange of ratifications is carried out at that time. While the language of the first part of the undertaking is indefinite, and the word "artificial" in the second stipulation is objectionable, there is no question but that a good deal of protection might be secured; and the Foreign Office would certainly be gaining a weapon, perhaps as satisfactory as is possible without new legislation, against the Exchange Control Commission. If the Department should so decide and should issue a telegraphic instruction to the Embassy, it might be feasible at the end of next week to push through either the foregoing proposal or one somewhat weaker. It would certainly be impossible to secure anything stronger.

On the other hand, there are adverse considerations. With such a provision once in existence, the Foreign Office might be less disposed

than at present to feel a sense of urgency in connection with negotiations for a general commercial treaty. If the Foreign Office proved able to utilize the clause successfully against the Exchange Control Commission, it might also gradually become reluctant to modify a situation under which for the first time it would enjoy a measure of actual authority in exchange matters. The goal of our negotiations, I believe, should be a modification of the entire exchange control system here; and there is a strong probability that the objectionable Law No. 5107³⁸ will in fact be thrown into the legislative melting pot within the next few weeks or months. If our position remains unprotected, and our causes for complaint quite unadjusted, we may be in a better position to influence the trend of the new legal enactments to be framed.

This will particularly be true if we are at that time in the course actively of negotiating a general treaty, as we would then have definite advantages to offer Chile, in return for exchange reforms. The adjustment of the exchange situation may be thought of as logically forming a part of a general settlement,—a view which the English have held.

In this connection I may advert officially to the idea which I have been advocating orally and informally for some months past that a definitive and fundamental rearrangement of our economic relations with Chile should in some way recognize the latter's special disabilities in regard to exchange. The Chilean point of view expressed in the Foreign Office Memorandum transmitted with the Embassy's despatch No. 261 of July 15, 1936,³⁹ and again in Señor García's informal memorandum of October 4, 1937, is based upon convictions so deep and genuine that some cognizance of them will be necessary if a broad and amicable economic understanding is to be reached. Due to temporary circumstances in the Embassy this week it has not been possible to prepare an adequate discussion of this point for the present airmail; but the general factors are of course well known to the Department. If the Department should find feasible some acceptance of Chile's belief that the uncompromising tactics of her Continental customers force her, however reluctantly, to resort to protection for her monetary unit in relation to ours, (in line with our policy of sympathy and good will in Latin America), there is a fair likelihood that a Hull treaty, involving a general reform of the exchange control system here, might become practicable. On the contrary supposition, the immediate negotiation of the best possible

³⁸ Chile, *Boletín de Leyes y Decretos del Gobierno*, April 1932 (Santiago, 1932) vol. 101, p. 659.

³⁹ *Foreign Relations*, 1936, vol. v, p. 355.

exchange clause, and the probability that any *modus vivendi* which may now be forthcoming will remain the basis of our commercial relations for a protracted period, should be definitely contemplated.

Respectfully yours,

WESLEY FROST

611.2531/213 : Telegram

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

SANTIAGO, November 9, 1937—10 a. m.

[Received 10:25 a. m.]

71. British Embassy states Chilean Foreign Office initiated suggestion 6th instant that present British *modus vivendi* without exchange clause be renewed for 6 months; and Embassy has recommended this to London. Same source informed that postponement of entry into effect Franco-Chilean treaty beyond November 19th is not unlikely, especially if desired from any interested quarter. Whether United States should include best possible exchange clause in our *modus vivendi* seems to depend on whether Department is disposed to facilitate general treaty negotiations through somewhat special attitude in Chile's case. In any event current indications of early and extensive diminution of international and internal economic strength enjoyed by Chile during past year may counsel rather active prosecution of our negotiations at this time.

FROST

611.2531/212 : Telegram

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

WASHINGTON, November 9, 1937—noon.

48. Your 65 and 69 of October 29 and November 2, 1937.

(1) The Chilean substitute text for paragraph 3 is not acceptable for inclusion in the *modus vivendi* because it would appear to constitute recognition by this Government of inequitable treatment of American trade. You are therefore requested to continue negotiations with a view to reaching the best agreement possible in respect of exchange which does not embody a recognition of discriminatory treatment.

The Chilean Government has repeatedly given assurances orally and in writing that it intends to abolish exchange restrictions on trade with the United States as soon as conditions permit. It would appear incidentally that it would have a good effect on public opinion in the United States, particularly among the financial and export

communities, were the Chilean Government to make in the *modus vivendi* a clear declaration of its intention to abolish exchange restrictions on trade as soon as may be possible. If you believe that a better exchange provision cannot be agreed upon, you are requested to seek as paragraph 3 of the *modus vivendi* the following, which is merely a repetition of previous assurances:

"The Government of Chile undertakes to abolish as soon as possible all forms of exchange control affecting the transfer of payment for articles the growth, produce or manufacture of the United States."

It should be clearly understood that the foregoing proposed provision does not cover the question of the exchange treatment which this Government expects from Chile pending the abolition of exchange control.

(2) Considering that the provisions of the proposed *modus vivendi* are particularly limited in their scope, this Government does not believe that it would be advisable to make provision for a joint committee similar to the committees established by Chile and Peru and Chile and Ecuador. This Government would be glad, however, to give appropriate consideration to any definite proposals in this respect which the Chilean Government might later wish to communicate.

(3) In regard to the recommendation of the Treaty Commission of the Foreign Office that the treatment accorded three frontier countries be excepted from most-favored-nation treatment granted other countries in future agreements, this Government considers that to accept this proposal would establish a precedent for new exceptions to the most-favored-nation principle such as to undermine its entire liberal trade policy including its trade agreements program. The existing *modus vivendi* does not provide for such exceptions. Señor Pereira, First Secretary of the Chilean Embassy, in a conversation with officers of the Department on October 21 indicated that his Government would be disposed to omit in the *modus vivendi* exceptions on the part of Chile. If, however, the Foreign Office should be insistent in the matter, you may offer the following counter proposal: Strike out the period after the word "Agreement" in numbered paragraph 4, and insert in lieu thereof a semicolon and the following:

"and this Agreement shall not apply in respect of advantages now accorded or which may hereafter be accorded by the United States of America or the Republic of Chile to adjacent countries in order to facilitate short frontier traffic."

Please communicate orally to the Foreign Minister the Department's position concerning the points mentioned above and keep the Department informed of further developments by telegraph.

WELLES

611.2531/212 Suppl. : Telegram

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

WASHINGTON, November 15, 1937—1 p. m.

49. Department's 48, November 9. Please inform Department immediately as to status your discussions with Chilean Government re *modus vivendi*.

For your information Under Secretary informing Chilean Ambassador this morning that Department appreciates modifications of gold rates applicable to imports of various American products; at the same time he expressed the hope to the Ambassador that any prospective modifications of tariff rates applicable to American products would not substantially offset the benefits derived from the revision of exchange rates.

HULL

611.2531/221 : Telegram

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

SANTIAGO, November 17, 1937—5 p. m.

[Received 9:23 p. m.]

76. Department's 48, November 9, noon. García as a result of three protracted interviews has approved proposals with regard to *modus vivendi* as outlined below. While these proposals have also been discussed and approved by two other members of the Comision de Tratados, they have still to be submitted to that body as a whole in its formal session on the afternoon of the 19th instant. The Embassy would appreciate the Department's reactions in the meantime, in order to facilitate prompt discussions, presumably final, on the evening of the 19th or morning of the 20th. The date for exchange of ratifications of the Franco-Chilean treaty can be retarded until approximately the end of the month; but García is leaving for about a week's absence in Buenos Aires on the 21st.

1. The following text is suggested for paragraph 3 in the *modus vivendi*:

"(a) The Government of Chile will take the steps necessary to abolish, as soon as its international economic position permits it to do so, the exchange control measures affecting the transfer of payments for articles the growth, produce or manufacture of the United States.

(b) Until such time the Government of Chile will avoid exchange control measures involving the use of exchange at rates higher than those which would be set by free supply and demand of the market."

For the Department's information the discussion hinged on the phrase "as soon as possible" and on the word "undertakes." The Embassy feels that the Chilean proposal is as satisfactory as can be secured. Clause (b) is definite in its terms and affords a greater measure of protection than the Embassy had hoped to secure.

2. García accepts paragraph 4 of the present *modus vivendi* draft with the addition of the proposal as to short frontier traffic furnished at the end of paragraph 3 of the Department's telegram No. 48 cited above, but only on condition: that the Department agree to the pledge mentioned next below.

3. García proposes in addition to paragraph 7 of the present *modus vivendi* draft an eighth paragraph as follows:

"Both Governments undertake immediately to initiate negotiations for the conclusion, within the shortest possible time, of a treaty of commerce and navigation to regulate in definitive form the economic relations between the two countries."

García would alternatively accept a stipulation to the effect that the new *modus vivendi* terminate within a set period of 6, 9 or 12 months, in order to render obligatory the conclusion of a general treaty before that time. The British *modus vivendi* as at present proposed provides for its termination and the completion of a general British-Chilean treaty by June 30, 1938. It may be explained that if a provision excluding adjacent countries from the operation of the *modus vivendi* could be inserted in paragraph 4, which García was informed is impracticable, he would be willing to waive either of the above alternative proposals.

4. Embassy believes that proposals for paragraphs 3 and 4 set forth above should be accepted, as well as final stipulation for immediate treaty negotiations.

FROST

611.2531/222: Telegram

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

SANTIAGO, November 18, 1937—2 p. m.

[Received November 18—1:35 p. m.]

77. Add my number 76, November 17, 7 [5] p. m. García particularly requested an assurance that the Department does not contemplate any steps with regard to a customs duty on nitrate during period between signing of *modus vivendi* and conclusion of general treaty. He apparently realized that such assurances could not be in written form, but stated that a declaration received orally would be

of assistance in connection with *modus vivendi*. Embassy feels this to be an indication of Chilean nervousness regarding nitrate and also of Chilean desire to negotiate general treaty, of which latter desire I have had other recent indication. Department might authorize informal oral statement as to its present intentions possibly so couched as to leave impression that future intentions might be different. This morning Vergara, Acting Foreign Minister, requested following phrase to be inserted at beginning of paragraph 3; "the Government of Chile confirms its previous declarations and reiterates that it will take the steps, et cetera". This seems admissible.

FROST

611.2531/222 : Telegram

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

WASHINGTON, November 19, 1937—6 p. m.

52. Your 76 and 77, November 17 and 18.

1. Item (a) of suggested exchange provision is satisfactory, including the amendment suggested in your 77. As regards item (b) we are not fully clear as to its meaning and intent. Does it mean that only one rate will be applied in respect of payment for imports from the United States? Would this rate be the same as the rate for corresponding imports from all other countries? Does the exchange market referred to include exchange derived from all sources including that blocked in compensation countries? How, if at all, does the undertaking in (b) differ from a commitment to permit a free exchange market? Upon receipt of an interpretation as to the meaning of item (b), the Department will promptly inform you whether it accepts the item as proposed or in any amended form which you may submit.

2. García's proposed paragraph with respect to entering into negotiations for a treaty of commerce and navigation is satisfactory. However, it is suggested that the language would be improved if it read as follows:

"The Contracting Parties undertake immediately to initiate negotiations for a definitive treaty of friendship, commerce and navigation."

The new paragraph should be inserted between numbered paragraphs 5 and 6 of the Department's counterproposal of February 18, 1937.⁴⁰

In order that there may be no misunderstanding in the Foreign Office with respect to what is meant by a definitive treaty of friendship, commerce and navigation, you should explain clearly that such a

⁴⁰ See American draft note, p. 387.

treaty embraces the treatment of nationals and shipping and other general relations as well as the broad principles governing trade relations (but does not include tariff schedules) and, in this country, requires the advice and consent of the Senate to ratification. On the other hand, our trade agreements include tariff schedules and deal only with commercial matters. Under existing legislation, trade agreements are not submitted to the Senate for advice and consent to ratification.

If the Foreign Office has reference to the negotiation of a reciprocal trade agreement, you may say that we are prepared to explore the possibilities of entering into negotiations after the *modus vivendi* is signed.

On the other hand, you should explain that it would not be practicable to agree to an undertaking in the *modus vivendi* in respect of trade agreement negotiations. The trade agreements act⁴¹ requires that formal public notice of intention to negotiate be given in order that interested persons may have an opportunity to present their views. Inasmuch as the steps necessary for entering into trade agreement negotiations involve the setting up of more or less elaborate administrative machinery entailing considerable expense and labor, it is not practicable to make such public notice until the possibilities of entering into negotiations have been explored and it has been ascertained that a mutually satisfactory basis therefor exists.

3. With reference to the assurances requested by García in respect of nitrate, please explain that the President has no authority whatever in respect of binding this product on the free list except by means of a trade agreement.

HULL

611.2531/224 : Telegram

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

SANTIAGO, November 22, 1937—7 p. m.

[Received 9 : 15 p. m.]

80. Department's 52, November 19, 6 p. m.

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 1 forward) so long as exchange availabilities remain adequate. If strife [*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

⁴¹ Approved June 12, 1934; 48 Stat. 943.

the free rate goes higher than Chile feels safe she can only recur to import quotas, subject to paragraph 2 of *modus vivendi*. 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. Her present offer, however, affords much more protection than hitherto secured, and further present discussions with her might become prohibitory without leading to better results.

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 the present noncompensation 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 use of exchange other than that created by Chilean exports when export draft 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.

3. García accepts the Department's substitute paragraph with regard to negotiations for a definite [*definitive?*] treaty of friendship, commerce and navigation. His acceptance is based partly upon the Department's statement that after the *modus vivendi* is signed the Department is prepared to explore the possibilities of entering into negotiations for a reciprocal trade agreement. The latter negotiations will presumably be coordinated with those for the general treaty, and will probably be regarded as of primary importance by the Chileans unless the general treaty undertakes to cover the exchange situation.

4. In the preamble and also eighth paragraph the word friendship will of course be inserted before the word commerce in describing the treaty to be negotiated.

5. In the eighth paragraph Foreign Office requests omission of words "come into force as of this day" since definitive entry into force can come only after submission to Congress. In practical fact Foreign Office will issue a decree rendering agreement operative as of date of signature. The Department will recall that previous *modus vivendi* omitted the words in question.

6. Accordingly if the Department accepts item (b) of the *modus vivendi* exchange provision the way is apparently clear for signing the

modus vivendi. García gave his approval prior to departure for Buenos Aires and the Foreign Office states that it is ready to conclude the *modus vivendi*, with the approval of the Comisión de Tratados, if now satisfactory to the Department, on the 24th or 26th instant. The Foreign Office feels the French have been very forbearing with regard to exchange of ratifications and that they cannot be held off more than a few days longer.

FROST

611.2531/227

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

No. 768

SANTIAGO, November 22, 1937.

[Received November 29.]

SIR: Referring to the Department's telegraphic Instruction No. 52 of November 19, 6 p. m., and to the Embassy's reply No. 80 of November 22, 7 p. m., I have the honor to request that if the Department sees fit the Embassy be furnished, as soon as practicable, with guidance respecting the various subjects to be included on the one hand in a commercial accord under the Trade Agreements Act, and on the other hand in a general treaty of friendship, commerce and navigation. At the present moment the prospects appear to be that a *modus vivendi* between Chile and the United States will be concluded within the next few days, including an undertaking to negotiate a general treaty immediately and also based upon collateral assurances that the Department is prepared to explore the possibilities of entering into negotiations for a reciprocal trade agreement.

In studying and discussing a broad economic settlement between Chile and the United States, the officers of the Embassy have had in mind a trade agreement along the general lines of the Brazilian-American agreement signed on February 2, 1935,⁴² although the more recent agreements of this type concluded by the United States have also been examined. These agreements contain unconditional most-favored-nation clauses with respect to tariff rates and regulations, and also include clauses respecting exchange treatment. It is noted, however, that the treaty of friendship, commerce and navigation between the United States and Finland,⁴³ which is understood to be based upon an outline deemed desirable for future treaties in this category, includes treatment of the unconditional most-favored-nation principle.

⁴² Department of State Executive Agreement Series No. 82, or 49 Stat. 3808; see also *Foreign Relations*, 1935, vol. iv, pp. 300 ff.

⁴³ Signed February 13, 1934, Department of State Treaty Series No. 868, or 49 Stat. 2659.

If the *modus vivendi* between Chile and the United States is signed within the next few days, 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. The Embassy, as the Department is aware, also believes that the conditions are more favorable for this purpose at the present time than they are likely to be when the international metal prices shall have reduced Chilean exchange availabilities, probably by the middle of 1938, and when the presidential campaign in Chile shall have rendered the internal political situation here even less normal than at present. If tentative conversations in respect to the trade agreement are opened, accordingly, in order not to lose the impetus already gained and the favorable atmosphere still prevailing, it will be advantageous to have a definite idea as to what subjects may be incorporated in such an agreement.

The Chilean Government has not previously shown any especial desire for a treaty of friendship, commerce and navigation, and has accepted the Department's pledge in the *modus vivendi* with regard to such a treaty to some extent for the sake of appearances. On the other hand, it possesses a genuine and rather earnest desire to bring about the conclusion of a trade agreement at an early date. It is therefore my impression that the negotiations with regard to the trade agreement should be given precedence, and that the matters to be included in it should be as numerous as possible. The trade agreement, presumably, cannot be completed until understandings have been reached with regard to the unconditional most-favored-nation principle, the question of contiguous countries, and the exchange situation. Since these subjects must be dealt with before the trade agreement can be signed, it would seem well to negotiate with respect to them in the agreement itself; after which they can be either repeated in a treaty of friendship, commerce and navigation, or omitted from it. In any event the negotiation of the treaty of friendship, commerce and navigation will be a relatively simple matter once these subjects shall have been disposed of, although there will naturally arise points of divergence which may involve long delays and discussions.

The Embassy would therefore greatly appreciate an indication from the Department as to whether the exploratory conversations, either at Washington or at Santiago, with reference to the trade agreement should deal with the three points above mentioned, and as to what other general subjects such conversations are to include. As indicated, my view would be that the trade agreement should be discussed upon as comprehensive a basis as possible, with the expectation that the treaty of friendship, commerce and navigation would then be dealt with on a relatively less pressing basis.

Respectfully yours,

WESLEY FROST

611.2531/224 : Telegram

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

WASHINGTON, November 24, 1937—7 p. m.

54. Your 80, November 22, 7 p. m. Please request the Foreign Office to present you with an informal written statement, which might cover the questions contained in the Department's no. 52 of November 19, 6 p. m., as to the interpretation which the Chilean Government gives to proposed item (b) of the *modus vivendi*, and telegraph the statement to the Department.

As the Franco-Chilean treaty will apparently not become effective for 15 days after the exchange of ratifications, our present *modus vivendi* should not automatically terminate before the end of that period.

HULL

611.2531/225 : Telegram

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

SANTIAGO, November 25, 1937—1 p. m.

[Received 1:45 p. m.]

81. Department's 54, November 24, 7 p. m. In García's absence Embassy fears any written Chilean interpretation of item 3 (b) would be as rigid and limited as possible. Indeed request for written statement would in itself tend to impel even García to restrict significance of clause or modify its terms. Present language cannot mean less than it says as set forth in my 80, November 22, 7 p. m.; whereas if written statement is not sought there will be some possibility of eliciting broader interpretation if circumstances favorable. Therefore, venture liberty of suggesting in all sincerity Department consider acceptance without collateral definition.

Department's point regarding 15 days of grace is indubitably well taken, but after exchange of ratifications an atmosphere of restraint and pressure will arise.

FROST

611.2531/228 : Telegram

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

SANTIAGO, November 30, 1937—9 p. m.

[Received 10:34 p. m.]

85. Mail plane departure delayed until Thursday. For the Department's information regarding *modus vivendi*, British signed on the 27th [26th] instant unconditional most-favored-nation arrange-

ment⁴⁴ to June 30 next, without exchange clause. In Comisión de Tratados on the 26th Urrejola, President of the Exchange Control Commission, insisted item 3 (b) our proposed *modus vivendi* be changed to terminate "higher than those which would be set for the general export draft rates." Foreign Office realizes that the American Government could not sign an instrument recognizing export draft rates which are not universal or equal as to all currencies, and will probably be able to defend clause as offered last week. It telephoned to García who is being delayed at Buenos Aires and he confirmed this policy.

Meanwhile Foreign Office intimated to Embassy informally on the morning of the 27th through Gazitva its concern and irritation over increases in Grace Line freight rates on fruits and legumes. Without waiting to verify facts as Embassy suggested it handed a statement to the press at noon on the 27th beginning "In circles close to the Foreign Office" and denounced the rate increases as unwarranted and destructive to Chilean agricultural export sales to the United States. The statement intimated in plain terms that Chile is likely to be forced to suspend commercial negotiations and return to restrictive measures as result of diminished exchange availabilities arising from lower exports due to the increased freight rates. Embassy was disposed to regard this largely as an emotional display but Foreign Minister's interview with me this morning (see my No. 84, November 30, 8 p. m.⁴⁵) indicates that he intends to force the issue on the freight rates by every means within his power, although he did not specifically allude to the trade negotiations.

FROST

611.2531/225 : Telegram

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

WASHINGTON, December 2, 1937—4 p. m.

55. Your no. 81, November 25, 1 p. m. If after definitely satisfying yourself, by assurances from the Foreign Minister or from García after his return, that the Chilean Government's interpretation of item (b) is that contained in your telegram no. 80 of November 22, you may execute the *modus vivendi*.

Your note will be identical with the text transmitted to the Foreign Office on February 22, 1937, as reported in your despatch no. 527 of March 13, 1937, with the following exceptions.

(1) In the introductory paragraph, there will be inserted the word "friendship," after the words "treaty of".

⁴⁴ League of Nations Treaty Series, vol. CLXXXVI, p. 285.

⁴⁵ Not printed.

(2) Article 3 will conform to the text contained in your telegram no. 76 of November 17.

(3) In article 4, the period will be replaced by a semicolon and there will follow the words contained in the penultimate paragraph of the Department's telegram no. 48 of November 9.

(4) In article 6 the word "agreements" will be changed to "agreement"; also, there will be inserted after the words "shall terminate" a comma and the words "if it will not have already automatically terminated,".

(5) In article 7 there will be deleted the words "shall come into force as of this day and", and there will be inserted after the words "treaty of" the word "friendship,".

(6) There will be added as article 8 the following: "Both governments undertake immediately to initiate negotiations for the conclusion of a treaty of friendship, commerce and navigation."

You will note that the foregoing text of article 8 omits the obligation contained in the proposal of the Chilean Government to conclude a treaty of friendship, commerce and navigation "within the shortest possible time", which treaty should "regulate in definitive form the economic relations between the two countries." If, as seems likely, the Chilean Government will desire to initiate exploratory conversations for a reciprocal trade agreement upon the conclusion of the *modus vivendi*, it would probably be advisable not to discuss the commercial provisions of the treaty until at least the general provisions of the trade agreement have been agreed upon. This does not imply, however, that conversations could not be proceeding with respect to other parts of the treaty.

Before signing the *modus vivendi* you are requested to inform the Chilean Government orally that although this Government is accepting for purposes of the *modus vivendi* the exchange clauses proposed by the Chilean Government, this Government would in a trade agreement or in a treaty of friendship, commerce and navigation, expect more comprehensive assurances of equality of treatment in exchange matters.

HULL

611.2531/230 : Telegram

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

SANTIAGO, December 8, 1937—11 a. m.

[Received December 8—10:50 a. m.]

89. Department's 55, December 2, 4 p. m. Foreign Office here approved interpretation of item (b) contained in my telegram 80;⁴⁶ but García at Buenos Aires, to whom it was air mailed, has unexpectedly raised objections to fourth sentence, regarding recourse to

⁴⁶ November 22, 7 p. m., p. 417.

import quotas. A modification of this sentence may be submitted to the Department by telegraph tomorrow. García's return now set for early next week.

FROST

611.2531/230 : Telegram

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

WASHINGTON, December 20, 1937—6 p. m.

62. Your telegram no. 89, December 8, 11 a. m. Please telegraph status of *modus vivendi* negotiations and why there has apparently been a delay in the exchange of ratifications of the Franco-Chilean commercial treaty.

HULL

611.2531/234 : Telegram

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

SANTIAGO, December 21, 1937—7 p. m.

[Received 8:45 p. m.]

97. Department's 62, December 20, 6 p. m. García returned yesterday afternoon and at his request have discussed *modus vivendi* with him this afternoon. He stated that he will tomorrow submit amended form of fourth sentence my telegram 80 to clarify nature of measures Chile might utilize in event of severe exchange scarcity. He has been deferring exchange of ratifications of the Franco-Chilean treaty so long that he can hardly protract *modus vivendi* negotiations very much further.

FROST

611.2531/235

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

No. 799

SANTIAGO, December 22, 1937.

[Received December 28.]

SIR: Adverting to the current negotiations for a Chilean-American *modus vivendi*, and particularly to the exchange problem, I have the honor to report that the delays in connection with the interpretation of Item 3 b of the draft may possibly prove to have had at least the advantage of clearing the way for a more rapid definitive exchange settlement in a subsequent trade agreement. The crux of the exchange difficulty seems to have become the acceptance by Chile of

the principle that the exercise of control, when needed, by import quotas based upon previous trade will be practicable and will avoid overt differentiation in treatment between the countries with which Chile has economic relations.

The Under Secretary of Commerce feels that the imposition of such quotas, while it might safeguard the peso, would prevent Chile from recourse to the compensation countries for needed articles which she could readily pay for in the blocked currencies she holds. I have pointed out to him that such situations would only be temporary, and the hardship for Chile would be far less than that which would be caused to the United States by Chile's turning over American lines of trade to countries which have been using shock tactics against Chile in the matter of exchange. I have mentioned that neither the United States nor any other country can be expected to sign a formal agreement conceding the right of Chile to differentiate openly against its merchants. The probability which has existed that exchange availabilities would be relatively abundant during the next few months, and the possibility that a Chilean-American trade agreement might in the meantime enable Chile to increase her dollar availabilities by increasing to some extent her sale of products in the United States, have also been pointed out. If this reasoning should be successful in overcoming Señor García's fear that the use of quotas might exclude from Chile goods from Europe which she would be in a position to pay for (and also might lead to sharp difficulties with Europe), a long step would have been taken toward a Hull agreement.

In the contrary event, i. e. if the Foreign Office should refuse to make the minor sacrifice of occasionally foregoing recourse to European goods, for the sake of granting equality of treatment to the North American partner who has sustained many losses through faith in Chile's economic future, there may be difficulty in concluding either the *modus vivendi* or a trade accord. In order to expedite the reaching of decisions in the case of such a refusal on Chile's part, unlikely as this has seemed, it may be well to raise with the Department at this time the question of the attitude and action which might become advisable.

The Department will recall that in my telegram No. 69 of November 2, 1937 the view was expressed that if a really advantageous exchange clause could not be secured in the *modus vivendi* I would not shrink from signing a brief last-minute agreement containing nothing more than most-favored-nation clauses on tariff rates and import quotas. This view was based, however, upon the assumption that the securing of a suitable exchange clause would ultimately be possible through negotiations and offers in connection with a Hull trade agreement.

It naturally will not hold good if Chile's recalcitrancy with regard to even a temporary exchange settlement is found to be so rigid as to render a permanent settlement through a trade agreement quite improbable. The prospects for a provisional adjustment on exchange in the *modus vivendi*, which have appeared rather good, have been based in part on the absence of Don Gustavo Ross from Chile and in part upon the apparent comprehension and good-will displayed by Don Desiderio García. If it now eventuates that the latter, despite his protestations, is firmly opposed to the sole mode of protecting the peso which could give us equality of treatment, namely the use of import quotas, an active doubt arises as to whether a brief *modus vivendi* without an exchange clause should be signed at all.

The signing of such a *modus vivendi* on the one hand, would indicate our abandonment of hope for a satisfactory exchange settlement, and therefore our abandonment of hope for the conclusion of a Hull agreement. It would also foreshadow the indefinite continuation of the frictions and recriminations which have marked Chile's relations with us for the past year, and which are by no means free of unpleasantness for her. In this way it might even generate a revulsion of Chilean official feeling which would turn out to be of aid in finally securing exchange protection for us and a trade agreement for Chile.

On the other hand the signing of such a *modus vivendi* would at once give Chile exemption from the penalties invocable under Section 338 the United States Customs Tariff,⁴⁷ and from the withholding of the American tariff concessions made in the Hull agreements. Chile would grant us, it is true, the special tariff rates contained in the Franco-Chilean Commercial Treaty; but these affect only some \$330,000 of our shipments to her. It might be more advantageous for the United States to suffer the loss of these special rates, and retain the right to utilize the sanctions provided by our legislators against tariff discrimination, than to secure the rates and surrender our weapons for securing permanent satisfaction in the far more important exchange matter. It would be of relatively small benefit to us to protect this unimportant amount of trade against tariff discrimination, if in order to do so we should sacrifice the possibility of exchange safeguards which would vitally affect our entire trade to Chile.

On the basis of these considerations it would be possible to contemplate a policy of not signing any *modus vivendi* if García and his associates should prove obdurate as to Item 3 *b* of the present draft (a course on his part which might indicate the impracticability of ever

⁴⁷ Tariff Act of 1930; 46 Stat. 590, 704.

reaching an exchange settlement on which a Hull agreement could be based). If Chile thereupon, after exchanging the ratifications of her treaty with France, should proceed to impose higher duties on certain American goods than those imposed on the same goods from France and other favored nations, the United States would retain the right to act under Section 338; or to add Chile to the list, now composed solely of Germany and Australia, of the countries to which the tariff concessions contained in our various Hull agreements are not extended. While relatively few of the concessions as yet granted by these agreements are of practical importance to Chile, it is likely that some of those to be granted in our forthcoming trade agreements with England and other countries would be so (or indeed might be made with this purpose in mind). Moreover Chile would presumably not relish the stigma of being denominated one of the three nations in the world found culpable by the United States of the type of discrimination which the Buenos Aires accords condemned. Our position, therefore, if we decline to sign any *modus vivendi*, as a result of Chilean obstinacy on the exchange clause, might in the long run bring her to a fairer and more tractable spirit. This would be far from certain, however, and a condition of tariff hostility might result in which even a recourse to an American duty on nitrate (which would in itself present many difficulties) would prove unavailing.

The foregoing possibilities have for several months been in my thoughts and have not been mentioned to the Department because it has seemed gratuitous to envisage developments so undesirable until circumstances should compel this. Confidence has been felt that by the display of sympathy and by the offer of the inducements which a Hull agreement could contain, a full adjustment would become feasible. As stated at the outset of this despatch, we may still entertain strong hopes for an amicable arrangement. Nevertheless, Chile's action in deliberately withdrawing \$4,000,000 of American exchange from the availabilities for financing American trade, in order to spend it in buying European-made naval cruisers, (reported in my telegram of today's date, No. 98 ⁴⁸), coupled with the apathy or antagonism shown by Señor García in connection with the import quota aspect of the exchange clause in the *modus vivendi*, may perhaps be regarded as modifying the prospects. The possibility of refraining entirely from the signature of a *modus vivendi* might therefore now be worthy of at least cursory attention,—always with the hope that this attention will prove to have been unnecessary.

Respectfully,

WESLEY FROST

⁴⁸ Not printed.

611.2531/236: Telegram

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

SANTIAGO, December 28, 1937—11 a. m.

[Received 1:09 p. m.]

100. Department's telegram No. 55, December 2, 4 p. m. García today accepts interpretation of item 3 b contained in my telegram No. 80⁴⁹ except fourth sentence which he wishes to read as follows

"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."

I suggested that if the definition were thus to be amplified it should also contain reference to increasing the draft rate as a means of meeting an exchange scarcity and to the possibility of using quotas of goods other than those which should previously have been made financeable by free market dollars. García replied that both of these possibilities are covered by "other measures of general applications," and stated that I might officially inform the Department that the Foreign Office considers the phrase in question as covering *inter alia* export draft rate modifications and as quotas on any types of articles. With this oral understanding, reached definitely in the presence of the Commercial Attaché as well as Serrano and Gacitua, I believe the García sentence might be accepted.

García suggests that the Embassy address an informal *aide-mémoire* to the Ministry of Foreign Affairs and Commerce furnishing the text of the interpretation given in my telegram number 80, revised as to the fourth sentence to conform to his suggestion, and inquiring if the interpretation thus revised accords with the views of the Chilean Government. If such an *aide-mémoire* is received he will reply in the following terms;

"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 in the telegram embodied in *aide-mémoire* of the Embassy of (blank date) regarding item (b) of article 3 in 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

⁴⁹ November 22, 7 p. m., p. 417.

of monetary difficulties regarding exchange which have been presenting themselves in the past.

In this understanding it cherishes the hopes that within brief time, perhaps no greater than that fixed by the terms of the recent 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."

This expression would open the way for a denunciation of the *modus vivendi* by either party if the trade agreement negotiations do not yield satisfactory results. I had previously orally informed García clearly of the purport of the last paragraph of the Department's No. 55, and the above *aide-mémoire* which he is ready to send us is in a sense his statement. The Embassy is convinced that the Chileans wish to negotiate very seriously regarding a trade agreement when and if the *modus vivendi* is signed. The Embassy sees no objection to their insistence on prompt definitive negotiations; and feels that García's *aide-mémoire* would have the tactical advantage for us of leaving us in almost as free a position, because the denunciation of the *modus vivendi* late next spring would be actively regarded by both parties as a possibility, to adopt defensive measures through our tariff rates, if a definitive exchange settlement cannot be reached in trade agreement negotiations, as though no *modus vivendi* were signed. Yet if we wished to continue the *modus vivendi* after failure of negotiations there would still be fair prospects for doing this.

The Embassy is disposed to feel that the Department would be in a better rather than worse position to protest against Chilean rearmament project if the *modus vivendi* were signed than if it were dropped. García and the Foreign Office would be more disposed to combat the objectionable features of the rearmament law to save a trade agreement than to save the *modus vivendi*. He claimed not to have studied the proposed bill, but stated that it manifestly will greatly affect the exchange problem and will have his immediate personal attention.

FROST

611.2581/233 : Telegram

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

WASHINGTON, December 31, 1937—8 p. m.

67. The Department approves the text of the *modus vivendi* transmitted in your despatch no. 789 of December 15 ⁵⁰ except that the word "national" in Article 1 should be "nation" and that the word "ammunitions" in Article 5 should be in the singular. It is noted that in

⁵⁰ Not printed.

the first part of Article 3 there have been added the words "confirms its previous declarations and reiterates" but the Department has no objection to this addition.

In as much as it now appears that the Chilean Government prefers to proceed with the trade agreement conversations before negotiating the treaty of friendship, commerce and navigation, the Department believes that it would be desirable to omit Article 8 of the *modus vivendi* and you are authorized to do this if the Chilean Government concurs, but the Department does not object to the inclusion if the Chilean Government insists upon it.

Referring to your telegram no. 100 of December 28, 11 a. m., you are authorized, if you deem it advisable, to exchange the proposed interpretative *aide-mémoire*. It is suggested, however, that for greater clarity the words "treaty of commerce" in the third paragraph of the proposed Chilean *aide-mémoire* be replaced by the words "treaty of friendship, commerce and navigation or a reciprocal trade agreement".

With reference to your telegrams nos. 98, December 22, 7 p. m., and 99, December 24, noon,⁵¹ it is noted that you state in the latter telegram that the rearmament bill will prolong exchange control for 10 years "thus rendering nugatory item 3 (a) of proposed *modus vivendi*". Under that item the Chilean Government limits its commitment regarding the abolition of exchange control to measures affecting the transfer of payments for American merchandise. Since it would appear that the Chilean Government could fulfill this obligation and still enact the proposed legislation, no reason is perceived for delaying on this account signature of the proposed *modus vivendi*.⁵²

An instruction on trade agreement procedure is being sent to you by air mail.

HULL

EFFORTS OF THE DEPARTMENT OF STATE TO SECURE EQUITABLE TREATMENT FOR AMERICAN INTERESTS WITH RESPECT TO CHILEAN EXCHANGE RESTRICTIONS⁵³

825.5151/396

The Ambassador in Chile (Philip) to the Secretary of State

No. 601

SANTIAGO, May 19, 1937.

[Received May 25.]

SIR: Recently it has been brought to my attention that in reply to an application by a Chilean importer for an export draft exchange

⁵¹ Neither printed.

⁵² The provisional commercial agreement with Chile was signed at Santiago on January 6 and February 1, 1933, Executive Agreement Series No. 119; 52 Stat. 1479.

⁵³ Continued from *Foreign Relations*, 1936, vol. v, pp. 324-367.

permit to cover the purchase of two commercial airplanes in the United States, Señor Rafael Urrejola, President of the Exchange Control Commission, replied by letter to the following effect:

"Concerning the importation of two Beechcraft passenger airplanes, we wish to advise you that there is no inconvenience for us in authorizing it, covering the value of \$17,000 (U.S.) with gold from Placer Mines (*Oro de Lavaderos*) at a price to be determined by the chief of that service."

I have the honor to report that such permits are extended with considerable frequency by the Exchange Control Commission. The procedure in these cases is almost invariably the same. The importer of American merchandise presents his permit at the "Oficina de Lavaderos de Oro" and is there informed that exchange will be furnished at the rate of thirty-five pesos to the dollar. Although the Embassy understands that in a few special cases American interests have been granted gold exchange at a more favorable rate than thirty-five pesos to the dollar, these transactions are the exception, and the great majority of American importations of the so-called luxury articles are admitted only at that rate.

Thus the sources of exchange permits entirely ignore the assurances given me by Don Gustavo Ross on December 11, 1936,⁵⁴ that henceforth the official rate of gold exchange would be twenty-six pesos to the dollar. Señor Ross made this statement seemingly as a result of my note of November 6, 1936,⁵⁵ to the effect that our Government deemed the rate of thirty-five pesos as discriminatory.

I may add that both the Exchange Control Commission and the "Oficina de Lavaderos de Oro" have insisted that they have no authority to fix an official rate of exchange. However, as stated, in certain favored cases, such gold exchange has been furnished to American interests by the latter at a lower rate than thirty-five pesos to the dollar. Legally the Banco Central is the sole arbiter of official rates of exchange. But in practice the bank is ignored by the Exchange Control Commission and the "Oficina de Lavaderos".

I was at one time informed that the "Oficina de Lavaderos" had the practice of informing importers that no gold exchange existed at the "official rate", but that they could be obliged at the rate of thirty-five pesos. However, of recent months the custom of the "Oficina" has been merely to offer that rate only. Thus, the exchange situation has remained much as it was when the fixing of the objectionable gold rate was announced on October 30, 1936 (Cable No. 108 of October 30, 3 p. m.⁵⁶). Furthermore, no official confirma-

⁵⁴ See despatch No. 438, December 12, 1936, from the Ambassador in Chile, *Foreign Relations*, 1936, vol. v, p. 366.

⁵⁵ For the text of the note, see telegram No. 78, November 5, 1936, p. m., to the Ambassador in Chile, *ibid.*, p. 360.

⁵⁶ *Ibid.*, p. 358.

tion of the new rate of twenty-six pesos has been received by the Embassy, as Señor Ross gave me to understand would be done.

The above-mentioned reply of the President of the Exchange Control Commission to a prospective importer embodied the additional inference that commercial airplanes are now included in the extensive category of American products denoted as luxury articles.

Such arbitrary treatment of our manufacturers seemed to me to call for notice. The list is already so extensive as to cover most of the principal exports to Chile from the United States—all of which, when permitted entry, are necessarily covered by the artificial rate of thirty-five pesos. At the same time it is a well known fact that the supply of Chilean gold is much behind the necessary amount to cover the bulk of current imports of such articles.

I have brought the unsatisfactory situation verbally to the attention of the new Minister of Foreign Affairs on several occasions. He has promised me his personal assistance in the matter, but I surmise that the Foreign Office has focussed its attention upon the prospective conversations in Washington, in July, on the arrival of its commercial mission now in Japan, and that little action is to be expected in the interim.

Under the circumstances, I have judged it expedient to call the Ministry's attention to the situation by means of a note.

I beg to transmit to the Department a copy of this communication dated the 17th instant.

With special regard to the activities of the Exchange Control Commission, which has assumed the role of the Embassy's "bête noir" during the past year or more, I have to report that Señor Urrejola has put himself out to express to me and to Dr. Randall, the Acting Commercial Attaché in Mr. Bohan's absence, his great desire to assist in the solution of our difficulties. This is a new departure for Señor Urrejola and it may be that it is due in some measure to the reported desire of the new Minister of Hacienda, Señor Francisco Garcés Gana, to curtail the activities of the Commission.

In the case of the *Compañía de Electricidad*, Mr. Curtis Calder, now here on a visit, has informed me that his Company recently has been granted all the exchange promised under the Ross-Calder Agreement.⁵⁷ Señor Urrejola states that he has liquidated a number of the frozen or blocked American credits, to which subject I have attached particular importance in my conversations, and that he will shortly propose a plan for the closing up of all these credits.

⁵⁷ This agreement was signed on November 26, 1935, by Gustavo Ross, the Chilean Finance Minister, and C. E. Calder, president of the American and Foreign Power Co.; it provided for a reorganization of the *Compañía Chilena de Electricidad, Ltd.*, and the settlement of its exchange difficulties.

The Embassy will shortly furnish Señor Urrejola with as complete a list of these credits as it is possible for it to assemble.

On the whole, I feel that our general trade outlook in Chile shows an improvement and it is to be hoped that further cabinet changes, which are now rumored as the probable outcome of the political situation here, will not affect this adversely.

Respectfully yours,

HOFFMAN PHILIP

[Enclosure]

The American Ambassador (Philip) to the Chilean Minister for Foreign Affairs (Gutiérrez Alliende)

No. 469

SANTIAGO, May 17, 1937.

EXCELLENCY: I have the honor to refer to our conversation of the 13th instant relative to the unsatisfactory situation which has existed for some time as regards the importation from the United States of all merchandise which has been classified by the Exchange Control Commission of the Republic under the designation of "luxury articles" and, as such, permitted to enter the country only against foreign exchange arising from Chilean produced gold.

In this connection I beg to recall the position of my Government as expressed to Your Excellency in my Note No. 318 of November 6, 1936, in which it was set forth that as long as a special rate of 35 pesos to the dollar is maintained for the importation of certain classes of merchandise, which come chiefly from the United States, while imports of the same commodities from countries having compensation agreements with Chile are granted exchange rates more favorable than that governing such imports from the United States, my Government would have no course other than to regard that rate as discriminatory against the commerce of the United States.

I have been recently informed that in reply to a request to import commercial airplanes from the United States, the Exchange Control Commission has replied that such authorization would be granted subject to the availability of Placer Mines (*Lavaderos de Oro*) gold exchange.

The Embassy views with concern this apparent tendency of the Exchange Control Commission to augment the list of items now requiring payment in gold. Further, much of the merchandise on the gold list is of prime necessity to Chile and it is evident that there is an insufficient supply of Placer Mines gold exchange to cover the requirements of Chilean importers. It has been reported to me that deliveries of gold exchange are as much as three to four months behind current demand.

In view of this general situation, and of the recent expression of the Exchange Control Commission, I beg to request information as to whether aircraft and aviation materials have now been definitely classified by the Government of the Republic as luxury articles and, as such, to be imported from the United States only against foreign exchange arising from Chilean produced gold and at the rate of 35 pesos per U. S. dollar.

Feeling assured of the desire of the Government of the Republic to facilitate in every way its trade relations with the United States, I beg to avail myself of this opportunity to suggest that the existing unsatisfactory situation might be ameliorated by the transfer of numerous articles now on the gold list to the category of those imported from my country with export draft exchange, should the Exchange Control Commission agree to this partial solution of the problem.

I avail myself [etc.]

HOFFMAN PHILIP

825.5151/396

The Secretary of State to the Ambassador in Chile (Philip)

No. 231

WASHINGTON, June 8, 1937.

SIR: Reference is made to your despatch No. 601 of May 19, 1937, enclosing a note which you presented to the Minister for Foreign Affairs on May 17 last in regard to the treatment being received by this country with respect to foreign exchange control in Chile.

The Department approves your action in this instance, but it prefers that you consult with it before presenting any formal notes on this subject in the future.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

825.5151/401

The Ambassador in Chile (Philip) to the Secretary of State

No. 628

SANTIAGO, June 16, 1937.

[Received June 22.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 231 of the 8th instant expressing approval of my note to the Minister of Foreign Affairs of May 17th last, respecting the treatment being accorded by the Exchange Control Commission of Chile to importations from the United States.

The Department's intimation that it desires any formal notes on this subject from the Embassy to be referred to it prior to delivery will be strictly complied with in the future.

In this connection I beg to transmit herewith a copy and translation of a note received from the Foreign Minister, dated the 11th instant, which is in reply to my note referred to by the Department.

I hope the fact that Don José Ramón Gutiérrez not only affirms that the importation of commercial aircraft may be effected by means of export drafts but that every effort will be made to lessen the exchange difficulties to which imports from the United States are subjected may be the cause of satisfaction to the Department.

Respectfully yours,

HOFFMAN PHILIP

[Enclosure—Translation]

The Chilean Minister for Foreign Affairs (Gutiérrez Alliende) to the American Ambassador (Philip)

No. 4878

SANTIAGO, June 11, 1937.

MR. AMBASSADOR: Your Excellency has seen fit, in Note No. 469 of May 17th last, to refer to the situation of that merchandise imported from the United States which the Exchange Control Commission classifies as luxury articles, permitting their entry into the country only against exchange arising from Placer Mines gold.

After recalling the position expressed in the Note of November 6, 1936,—that as long as the special rate of 35 pesos per dollar is maintained, Your Excellency's Government has no course other than to regard it as discriminatory against the commerce of the United States,—Your Excellency states that you have recently been informed that the Exchange Commission, having been consulted upon the importation of commercial airplanes, replied that this permission would be granted subject to said Placer Gold exchange. For this reason Your Excellency manifests your concern due to this apparent tendency to augment the list of articles which require payment in gold, for which you believe the availabilities to be insufficient as, according to information received by Your Excellency, deliveries of gold exchange are delayed three or four months. Your Excellency ends by requesting me to inform you in this regard and by suggesting that the situation referred to might be ameliorated by transferring several articles which are now on the gold list to (the list of) those payable in export draft exchange.

In reply, I take pleasure in informing Your Excellency that I have given careful consideration to the problems which Your Excellency has mentioned and which have been a cause of concern to this Chancery for some time, so as to find a just and harmonious solution which would make possible a definite arrangement, as I had the honor to

state to Your Excellency in the *Aide-Mémoire* of the 29th of April last. While we continue our efforts to find the formula which would satisfy these desires, I have at present the honor to inform Your Excellency that the Exchange Control Commission, in answer to the specific requests embodied in Your Excellency's note now being answered, has stated to this Ministry that it has not established that importations of commercial airplanes from the United States must be covered with Placer Mines gold, but to the contrary that it is disposed to authorize these importations with export draft exchange.

I also take pleasure in informing Your Excellency that the Exchange Commission has adopted extraordinary measures to bring up to date, within the first weeks of this month, all pending requests to be covered with this exchange. That Your Excellency may be more fully informed, I enclose a list ⁵⁸ of the merchandise the importation of which should be covered with Placer Mines gold.

Your Excellency has done well in stating that he is assured of the desire of the Government of the Republic of Chile to facilitate in every way its commercial relations with the United States. These are precisely the aims which govern it, and I shall be most happy if my personal action in this Ministry contributes to the establishment of the solutions which we seek and which, for mutual benefit, should eliminate the difficulties of reciprocal interchange which have arisen as a result of the anomalous conditions which world commerce has had to face up to the present time.

I avail myself [etc.]

J. RAMÓN GUTIÉRREZ

825.5151/436

The Ambassador in Chile (Philip) to the Secretary of State

No. 741

SANTIAGO, October 30, 1937.

[Received November 8.]

SIR: I have the honor to transmit herewith a copy and translation ⁵⁹ of an announcement made to the press by the Minister of Hacienda on the 28th instant regarding the lavadero gold exchange system. It will be noted that the declaration engages the Government to abandon the system in connection with the importation of automobiles and so-called luxury products, on December 31, 1937.

⁵⁸ Imports payable in Placer Mines gold: automobiles, trucks, spare parts and tires; radios and spare parts; gramophones, phonographs and spare parts; moving picture films, accessories and spare parts; liquors in general; articles of silk; fine furs; sweets, sweet biscuits, chocolates, etc.; shoes; hats; gloves; ready-made clothing; rugs; accessories of fine cut glass; furniture; leather articles; sporting articles; suitcases and handbags; jewelry, jewels of all kinds, costume jewelry; pictures, paintings, sculptures; toys; perfumes and toilet articles.

⁵⁹ Not printed.

My official conversations at the Foreign Office confirm this decision, and indicate that the appropriate decrees will be signed as soon as the question of importing 1938 automobile models prior to December 31st has been settled. In this connection I refer to my telegram No. 63 of October 26, 3 p. m., 1937.⁶⁰ The date of December 31st for the change from the lavadero rate to the export draft rate is quite acceptable to the importers of radios, automobile tires and all luxury goods except automobiles; and I have reason to hope that the latter will receive a fairly equitable adjustment.

It is a matter of profound satisfaction to me to be able to report this development at the present time, in view of numerous personal statements by Chilean officials to the effect that the efforts made here under my direction have been instrumental toward achieving it.

Respectfully yours,

HOFFMAN PHILIP

⁶⁰ Not printed.

COLOMBIA

SUGGESTION BY THE PRESIDENT OF COLOMBIA THAT THE UNITED STATES AND COLOMBIA COOPERATE IN SURVEILLANCE OF AREAS ADJACENT TO THE PANAMA CANAL

711.21/929½

*The Under Secretary of State (Welles) to President Roosevelt*¹

WASHINGTON, December 22, 1937.

MY DEAR MR. PRESIDENT: The Minister of Colombia came to see me this morning with a confidential message from the President of Colombia. President Lopez wants us to know that about ten days or two weeks ago a Japanese mission visited Bogotá ostensibly for the purpose of furthering trade between Japan and Colombia. The President is informed, however, that during the course of the visit of this Japanese mission the members thereof were in close touch with certain German nationals in Colombia, particularly with those who reside on the Colombian coast between Cartagena and the Panamanian boundary as well as in Buenaventura on the Pacific coast. Dr. Lopez states that he has these German nationals now under surveillance. The suggestion was made that because of the Far Eastern situation, this Government might care to discuss with the Colombian Government certain matters of common interest to the two Governments, namely, the surveillance of portions of the coast of Colombia adjacent to the Republic of Panama and certain measures in which both Governments might cooperate regarding the surveillance of waters adjacent to the Canal.

I told the Minister that I was highly appreciative of this suggestion and that I would convey it to you. I inquired of the Minister the methods which his Government would consider the most appropriate for the purpose of carrying on such conversations should they be deemed desirable. I further asked the Minister whether his Government would prefer having a representative of the Navy Department take a trip to Bogotá or whether it would prefer having some representative of his Government come to Washington in order to take the matter up here. He told me that he would consult confidentially with his brother, the President, and let me know if they had any preference in the matter.

¹ Photostatic copy obtained from the Franklin D. Roosevelt Library, Hyde Park, N. Y.

It would seem to me that a step of this kind could do no harm and might in fact prove advantageous. Will you let me know what your wishes may be so that I may inform the Minister accordingly. I, of course, took the precaution of telling him that we must consider our conversations strictly confidential, and he told me that no one except his brother, the President, knew anything about the matter.

Believe me

Faithfully yours,

SUMNER WELLES

711.21/929½

*Memorandum by President Roosevelt to the Under Secretary
of State (Welles)*²

WASHINGTON, December 23, 1937.

I have your letter of December twenty-second in regard to Colombian affairs. I think we should meet this proposal more than half way—the conversations to proceed either here or down there, whichever they wish. They should include also the possibility of exchange of information in relation to certain other Nationals in the Republic of Colombia near the Panama border.

F[RANKLIN] D. R[OOSEVELT]

² Photostatic copy obtained from the Franklin D. Roosevelt Library, Hyde Park, N. Y.

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

839.51/4489a

The Secretary of State to the Dominican Minister (Pastoriza)

WASHINGTON, February 10, 1937.

SIR: I have the honor to acknowledge the receipt of your note of January 23,¹ in which you inform me that you have been intrusted, together with Dr. Max Henriquez Ureña,² with the initiation of conversations looking to the concerting of a commercial understanding between the Dominican Republic and this country and with a revision of the Convention concluded in 1924.³

As no doubt you will recall, this Government has on more than one occasion indicated to the Dominican Government informally that it would be glad to give the most favorable consideration to any concrete proposal advanced to it by the Dominican Government looking towards a revision of the 1924 Convention.

There is little need for me to remind you of the fact which I feel sure every Dominican realizes, that the loans obtained by the Dominican Government since 1907 have been rendered possible on comparatively easy terms primarily because of the commitments undertaken by the United States. Dominican Government bonds have been purchased by nationals of the United States as well as by nationals of other countries because of the terms of the Convention, and consequently, this Government owes these bondholders a very definite responsibility, so that it cannot agree to abrogate the treaty unless the legitimate rights of the bondholders are fully respected.

The Government of the United States believes that it has with increasing frequency in recent years amply demonstrated its regard and sympathy towards legitimate Dominican aspirations. As an instance of this, I might mention the considerate attitude of this Government concerning the emergency plan adopted in 1933.⁴ The United States has consistently refrained, in all cases where it did not consider that the interests of the bondholders might be prejudiced thereby, from the

¹ Not printed.

² Dominican Minister to Great Britain.

³ Signed December 27, 1924, *Foreign Relations*, 1924, vol. I, p. 662.

⁴ See *ibid.*, 1933, vol. V, pp. 589 ff.

strict and legalistic interpretation upon which it might well have insisted of the terms of the Convention of 1924. Provided these acquired interests of the bondholders are respected, this Government has no interest in continuing the present provisions of the Convention of 1924, nor the general receivership as a treaty entity. On the contrary, in accordance with its determined policy of refraining from any form of activity involving participation by it, even through treaty right, in the domestic concerns of the other American republics, the Government of the United States would welcome the opportunity, upon the basis above stated, of relinquishing the obligations which it assumed under the terms of the Convention of 1924.

Likewise, as respects the negotiation of a commercial understanding, I am glad to assure you that this Government will be most happy to examine the question anew in a spirit of friendly and frank understanding. I should be lacking in candor, were I not to remind you in this regard, that the American Government has been concerned at the apparent delay of the Dominican Government in extending full most-favored-nation treatment on the basis of the existing *Modus Vivendi* of 1924,⁵ to American products similar in character to those products of French firms listed in Annex B of the *Modus Vivendi* forming part of the recently concluded Franco-Dominican trade convention.⁶

This Government has been disappointed at the apparent inconsistency of this recent attitude of the Dominican Government as contrasted with its support of the resolution advocating more liberal and non-discriminatory tariff policies adopted at the Seventh International Conference of American States at Montevideo in 1933,⁷ and reaffirmed and amplified in two resolutions at the recent Inter-American Conference at Buenos Aires.⁸ You will appreciate further that, before considering the negotiation of a new commercial agreement with the Dominican Republic, this Government necessarily feels that its unquestioned right to receive most-favored-nation treatment as respects United States products imported into the Dominican Republic pledged in the *Modus Vivendi* of 1924, should first be honored.

I shall, of course, be glad to receive you and your colleague, Señor Henriquez Ureña, at any time, and I have to suggest that you need only to confirm an appointment with my office by telephone. At the

⁵ Exchange of notes, September 25, 1924, *Foreign Relations*, 1924, vol. I, pp. 667-670.

⁶ Signed September 4, 1936, France, *Journal Officiel*, September 30, 1936, p. 10298.

⁷ 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.

⁸ Resolution XLIV, Equality of Treatment in International Trade, and 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 and 242.

same time, I venture to propound to you that little progress can be made as respects the negotiations envisaged until the Dominican Government has prepared the concrete proposal mentioned above which I desire to reiterate will receive my earnest consideration.

Accept [etc.]

CORDELL HULL

839.51/4491

Memorandum by the Secretary of State

[WASHINGTON,] February 11, 1937.

The Minister of Santo Domingo, accompanied by the Dominican Minister to London, Dr. Enrique [*Henríquez*] Ureña, came in and handed me the attached note from their government.⁹

I thanked the two gentlemen for calling and for the note and assured them that I would examine it with interest and care and give it the fullest consideration. I repeated what so many times Mr. Welles¹⁰ and I have said to them that our Government is very desirous of clearing up every undesirable condition existing between this Government and every government in Latin America; that I earnestly hoped that the Government of Santo Domingo would be able to meet us half way in this righteous undertaking; and that this Government, if possible, is even more anxious than the Government of Santo Domingo to get this undertaking accomplished. I added that, of course, if we should fail to carry out our trusteeship for American bondholders, which was assumed by a predecessor of mine, the United States Senate would not ratify the agreement, and it would go for naught. I elaborated somewhat upon the foregoing lines of conversation. They exhibited a thoroughly agreeable and sympathetic attitude.

C[ORDELL] H[ULL]

839.51/4490

The Dominican Envoys Extraordinary on Special Mission (Pastoriza and Henríquez Ureña) to the Secretary of State

[Translation]

WASHINGTON, February 11, 1937.

MR. SECRETARY OF STATE: In your kind note of February 10, 1937, addressed to Minister Pastoriza, Your Excellency, after stating that you are informed of the desire of the Dominican Government to undertake a complete revision of the Dominican-American Convention

⁹ *Infra.*

¹⁰ Sumner Welles, Assistant Secretary of State.

of 1924, declares that you are disposed to hear the concrete suggestions on the matter that our Government may wish to formulate.

In response to those indications, we have the honor to send to Your Excellency a draft of a protocol containing the ideas of the Dominican Government.

We do not believe it necessary to reiterate our Government's opinion that the 1924 Convention must be replaced by another instrument more in harmony with the needs of the present time and with the present trend of Pan-American international life. Applying an identical opinion, and taking as a basis the broad and shining "good neighbor" policy, the United States has already modified other treaties of past epochs, such as those which it had made with Haiti,¹¹ Cuba¹² and Panama.¹³

In proposing the modification of the 1924 Convention (which has been in existence for thirty years, strictly speaking, since it was a reproduction, with slight variations, of the 1907 Convention¹⁴), the Dominican Government does not propose any stipulation tending to diminish even in the slightest [degree]¹⁵ the guarantees of payment offered previously to the holders of bonds of the Dominican public debt. The mechanism established for the payment of the debt differs, undoubtedly, in external details, in order to render it compatible with the idea of Dominican sovereignty, but the guarantees are exactly the same, and provision is still made for reestablishing the procedure provided in the Convention which it is intended to replace, at any period of justified uneasiness, while the causes for such uneasiness last. We believe that such a contingency is outside any probability, not only because conditions in the country are very different from those which prevailed thirty years ago, but also because one of the defects of the two Conventions, the one of 1907 and the one of 1924, was that of establishing terms and conditions for amortization that were beyond the economic capacity of the Republic, and those terms and conditions have been expressly modified by means of an agreement with the bondholders, in such a way that the Dominican Republic will be able to accomplish the service on the debt at all times without difficulties, until its final payment. But although such a contingency may be improbable, we have wished to provide for it expressly, in order to make it impossible for any creditor to think that he does not count on the same guarantees of payment.

¹¹ *Foreign Relations*, 1931, vol. II, p. 505; *ibid.*, 1932, vol. V, p. 699; *ibid.*, 1933, vol. V, p. 755; *ibid.*, 1934, vol. V, p. 305.

¹² Signed May 29, 1934, *ibid.*, p. 183.

¹³ Signed March 2, 1936; for text, see Department of State Treaty Series No. 945, or 53 Stat. 1807. For previous correspondence, see *Foreign Relations*, 1935, vol. IV, pp. 889 ff.

¹⁴ Signed February 8, 1907, *ibid.*, 1907, pt. 1, p. 307.

¹⁵ Brackets appear in the file translation.

Other points, the modification of which we consider essential, are those referring to the concept of excessive limitation of the sovereign power of the Dominican Republic to change its tariffs and the concept, also too restricted, of what may be considered an increase in its public debt. It is necessary to formulate explanations of both points to avoid difficulties in interpretation in the future.

Our intention of presenting the concrete bases of revision proposed by the Dominican Government with regard to the Convention of 1924 being fulfilled, it remains for us only to mention the second point of Your Excellency's note: that which refers to the conclusion of a commercial treaty between the United States of America and the Dominican Republic. Your Excellency lays down as a preliminary question the necessity for the Dominican Government to apply the most-favored nation clause to the United States, in connection with the commercial treaty which it has concluded with France. Reserving the right to discuss this point more fully, we take pleasure in advising Your Excellency that the Dominican Government has expressed its juridical opinion on the matter, as a question of doctrine, but has the greatest desire to arrive at an understanding with the Government of the United States as to the application of that principle.

We believe it possible, in conversations on the subject to be held in the near future, to arrive at a satisfactory and harmonious formula, in order to initiate, immediately thereafter, the negotiations for the commercial treaty between the two countries.

We avail ourselves [etc.]

ANDRES PASTORIZA

MAX HENRÍQUEZ UREÑA

[Enclosure—Translation]

Dominican Draft of a Protocol To Replace the Convention of December 27, 1924, Between the United States and the Dominican Republic

WHEREAS a convention between the Dominican Republic and the United States of America, containing provisions for the aid of the United States in the collection and application of the customs revenues of the Dominican Republic, was concluded and signed by their respective plenipotentiaries in the City of Washington on the twenty-seventh of December, 1924;

WHEREAS this convention was concluded for the purpose of facilitating the system of payments of the public debt of the Dominican Republic, and subsequently the said debt has been considerably reduced;

WHEREAS the Dominican Republic has arrived at an agreement¹⁶ with the holders of the bonds of said public debt, who have consented to an extension of the amortization periods, subjecting moreover the capacity of the Republic, to make amortization payments, to a sliding scale in proportion to the increase of the customs revenues, and thus there is no doubt that the Dominican Republic will be in a position to satisfy without difficulty the debt service until its final payment, and all this is set forth in the certificates legally annexed to said bonds under date of January 2 and February 2, 1937;

WHEREAS experience has demonstrated that certain provisions in the convention of 1924 may hinder the action of the Dominican State intended to develop the natural resources of the country and the progressive extension of its industry and commerce;

WHEREAS the Dominican Republic has requested the cooperation of the United States of America to put into execution a new protocol which shall take into account these circumstances and the new provisions agreed upon with the bondholders with regard to manner of payment of the public debt; and the United States is disposed to give such cooperation;

The Government of the United States of America, represented by; and the Government of the Dominican Republic, represented by have agreed upon the following:

ARTICLE I

The Dominican Republic shall maintain, as guarantee of the punctual performance of the service of its public debt, its revenues in the form of customs duties, in conformity with the provisions in force with the holders of bonds of the debt; and such guarantee shall be maintained until payment has been made of each and every one of the bonds issued by the Dominican Government, based on the loans referred to by the Convention concluded by the Government of the United States of America on December 27, 1924, and subject to the conditions and limitations accepted by the bondholders in conformity with the agreement made in 1936, which are set forth in the bonds renewed under date of January 2, and February 2, 1937.

ARTICLE II

The Dominican Republic undertakes to apply in the order indicated below the proceeds of the customs duties collected in the various customs houses of the Republic;

First, to the payment of the expenses of the office of the Fiscal Representative of the debt; second, to the payment of the interest

¹⁶ See communications of December 15, 1936, exchanged between the Dominican Government and the Foreign Bondholders Protective Council, Inc., published in the Council's *Annual Report 1936* (New York, 1937), pp. 348-352.

on pending bonds; third, to the payment of the annual amounts stipulated for the amortization of said bonds, in conformity with the agreements now in force, including the interest on all bonds retained as a sinking fund; fourth, to the purchase and cancellation or retirement and cancellation of any of said bonds, in accordance with the terms thereof, as may be decided by the Dominican Government; fifth, the remainder shall be applied to the general expenses of the nation, in accordance with decisions made by the public authorities of the Dominican Republic.

ARTICLE III

The Executive Committee of Dominican Bondholders shall designate, with the previous approval of the President of the United States of America, a Fiscal Representative for the collection of the Dominican public debt, and the Dominican Government shall deliver to said Fiscal Representative, on the 20th of each calendar month, a sum equal to the twelfth part of the annual interest on all bonds issued and of the annual amounts indicated for the amortization of said bonds in accordance with the provisions in force with the bondholders. In his turn, the Fiscal Representative shall deliver said sum to the Fiscal Agent of the loan, on the first day of the calendar month next succeeding.

In the same way, the Dominican Government shall deliver to the Fiscal Representative, against a receipt, signed on the 20th of each calendar month, the amount necessary to pay the expenses of the office of said Fiscal Representative, and of the subordinate officials that he needs for executing the duties of his office. The said amount cannot in any case exceed three percent of the collections of the customs revenues.

ARTICLE IV

The Fiscal Representative shall supervise the functioning of the customhouses of the Republic, and shall report to the Secretary of the Treasury of the Dominican Republic any error or deficiency that he notices in the service; he shall, moreover, keep an account of the statistical data of the customs activities and the trade of the Republic with other countries; and shall make an annual report, which shall be submitted to both governments, in the Spanish and English languages.

The employees under the Fiscal Representative shall be appointed by said Fiscal Representative on approval of the President of the Dominican Republic.

ARTICLE V

If by reason of a disturbance of public order or because of any other unforeseen force other than a force apart from human will, or a pub-

lic calamity such as hurricanes, earthquakes, floods, fires or epidemics, the Dominican Government should find it impossible to meet the service on the public debt on the date fixed for payment thereof, the Dominican Government will consent that the Fiscal Representative take charge, before the first day of the following month, of those customhouses the collections from which he considers sufficient to guarantee punctual service on the public debt, and he shall directly collect the customs duties the revenue from which he shall assign, firstly, for meeting the expenses of his office; secondly, for the payment of the interest on all bonds outstanding; thirdly, for the payment of the amounts fixed for the amortization of said bonds; and fourthly, he shall place the remainder at the disposal of the Dominican Government. The payment of the amortization and the interest on the bonds shall be calculated every month by twelfths, and shall be made to the Fiscal Agent for the loan on the first day of each calendar month.

When the causes that brought about the direct intervention of the Fiscal Representative in the customs service have ceased and the situation of the country is considered normalized, the Fiscal Representative shall again turn over the custom houses in which he has intervened to the competent officials of the Dominican Government, and his duties shall again be adjusted to the rules laid down in Articles III and IV. During the whole period that his intervention lasts, the office expenses of the Fiscal Representative may not amount to a sum greater than five percent of the customs revenue.

ARTICLE VI

The Dominican Government shall render to the Fiscal Representative and his assistants all the aid and support that may be necessary, as well as the broadest protection in the discharge of their duties and the exercise of the powers granted to them in the foregoing articles, adopting for that purpose such laws and regulations as may be necessary.

ARTICLE VII

Until the Dominican Republic has paid off all the bonds of the loan, its contractual public debt may not be increased, by the contracting of new loans and new bond issues, except by prior agreement between the Dominican Government and the Fiscal Representative and the Fiscal Agent of the loan, the latter representing the bondholders. Notice of this agreement must be given to the United States Government in advance. It is understood that there shall not be considered as contrary to this rule the contracts and financial arrangements made by the Dominican Government for the execution of public works and other services of national interest, provided they be adjusted to the following conditions: firstly, as a guarantee of those contracts or

financial arrangements there shall be set aside the revenue from a given impost of the internal revenue service, which therefore does not affect the customs revenue, and the contracting parties must stipulate that they accept that as the sole guarantee for the performance of such obligation; and secondly, the maximum period for the liquidation of any of those contracts may not be greater than four years counting from the date on which the contract goes into effect. The Dominican Government expressly renounces the right that it has to issue new bonds up to the limit of twenty million dollars provided in the 1924 Convention. The Dominican Government may at any time sovereignly dispose of the internal revenues and imposts not set aside for guarantee and payment of the public debt and shall freely dispose of those receipts.

ARTICLE VIII

The Dominican Government may change its customs tariffs in accordance with the needs and advantage of its commerce, but pledges itself expressly not to reduce import duties at any time to such a point that, taking as a basis exports and imports of the same extent and the same kind for the two years preceding the year in which it is desired to make such modification, the net total of customs receipts under the tariff so modified would not have amounted, for each of the said two years, to at least one and a half times the sum needed to insure the service of interest and amortization of the public debt.

Nevertheless, there shall not be considered contrary to this rule the advantages and reductions in duties which the Dominican Republic may offer to other nations through commercial treaties or agreements and which do not signify an integral lowering of the import tariff, since they relate only to a given country; provided that such reductions may not mean the risk that customs imports may be reduced more than twenty percent, the computation being made from the imports which took place in the two years previous and the numerical proportion having been established by which the total customs revenue could be diminished, if imports were maintained at the same rate.

ARTICLE IX

The Fiscal Representative shall render accounts monthly to the Department of State for Treasury of the Dominican Republic, the Fiscal Agent and the Department of State of the United States, and the said accounts shall be subject to examination and auditing by the competent officials of the Dominican Government.

ARTICLE X

Every controversy which may arise between the Contracting Parties in the execution of the stipulations of this Convention shall be settled

by arbitration, if the two Governments cannot reach an agreement through diplomatic channels. For the execution of this provision in each special case, the Contracting Parties may, when the necessity for arbitration has once been determined, conclude a special agreement defining clearly the extent of the disagreement, the extent of the powers of the arbitrators and the periods that are to be fixed for the organization of the arbitral tribunal and the various stages in the proceedings. The special agreement providing for arbitration must be signed in all cases within a period of three months from the date on which either of the Contracting Parties notifies the other Contracting Party of its desire to have recourse to arbitration. It is understood that such special agreements shall be made, on the part of the United States, by the President of the United States, by and with the consent of the Senate, and that, on the part of the Dominican Republic, they shall be subject to the procedure required by its Constitution and laws.

ARTICLE XI

This agreement shall go into force after being approved by the Contracting Parties in accordance with their respective constitutional methods, but the principles and rules established in its Articles VII and VIII shall take effect immediately, as interpretation of stipulations III and IV of the convention of December twenty-seventh, nineteen hundred twenty-four, now in effect.

When the ratifications of this Protocol have been exchanged, which shall be done as soon as possible, the convention between the United States of America and the Dominican Republic which contains provisions on the aid of the United States in the collection and application of the Dominican customs revenues, signed in the city of Washington on December twenty-seventh, nineteen hundred twenty-four, shall be considered as abrogated.

Done in duplicate, in the English and Spanish languages, in the city of Washington, on

839.51/4489½

The Minister in the Dominican Republic (Schoenfeld) to the Assistant Secretary of State (Welles)

CIUDAD TRUJILLO, February 23, 1937.

MY DEAR MR. WELLES: Many thanks for your letter of February 15¹⁷ received yesterday, with its enclosures, being a copy of the Secretary's memorandum of February 11, 1937 recording a conversation with Ministers Pastoriza and Henríquez Ureña of the Dominican

¹⁷ Not found in Department files.

Republic, and a copy of their note of February 10 [11] to the Secretary with an attached draft protocol for revision of the American-Dominican Convention of December 27, 1924.

In the last two paragraphs of the Dominican note I observe that the readiness of the Dominican Government is intimated to lift the discrimination against American imports here upon the condition that negotiations for a trade agreement with the United States are initiated "immediately thereafter." Not having seen the Secretary's note of February 10 to which this intimation seems to be an answer, I can not comment intelligently on this point but venture to refer to my letter to you of February 1¹⁸ suggesting that the Dominican Government considers the discrimination a useful weapon in its relations with us. Rumors have been current here lately and have perhaps been put out for our benefit that the discrimination will be lifted shortly.

With reference to the first part of the Dominican note and the draft protocol, the Dominican Ministers are certainly candid and unmistakable in their statements of their Government's aspirations. Little seems to have been overlooked in the draft to strip from the holders of Dominican external bonds issued under the Convention of 1924 the last tattered remnant of the guarantees provided in the Convention, save only the good faith of the Dominican Government. That, of course, is much, if we are prepared to rely on it, and calls for no uncharitable comment in view of the record of the Trujillo administration. Nevertheless, in view of the Secretary's reference to the possible attitude of our Senate towards the proposal, some comments on the draft protocol suggest themselves, as follows:

Article 1. The phrase "customs duties" requires explicit definition in view of the Dominican Government's past action in the matter of levying customs duties and so-called internal revenue taxes on imports.

Article 2. This article makes only incidental reference to the Fiscal Representative who under the language used lacks authority to see that the order of payments is followed.

Article 3. Under this language the Fiscal Representative will receive payments to be made by the Dominican Government but will not collect revenue. This is confirmed by the contingent power given him in Article 5 to collect. His role will be a passive one except that he must see that his office expenses do not normally exceed 3% of customs collections (presumably excluding internal revenue taxes levied on imports). If he is to collect, as distinguished from merely receiving, he will have to be granted the power.

Article 4. Since the supervisory powers of the Fiscal Representative as defined in this Article are illusory, the statistical service to be

¹⁸ Not found in Department files.

rendered by him can not be effective. His ineffectiveness is greatly increased by the second paragraph of this Article which precludes his control over his own subordinates.

Article 5. Is our Government to determine when the Fiscal Representative shall take charge of customs houses? If so, this should be stated. But this seems not to be the intent of the language used.

Article 6. Due regard to the sovereignty of the Dominican Republic would, of course, counsel acceptance of this Article if the trusteeship for the creditors is to be vested in the debtor government.

Article 7. This Article is the frank negation of our latest representations in 1936¹⁹ as to the significance of Article III of the Convention of 1924. It will be accepted or rejected as we may decide whether or not the time has come to divest ourselves of the obligation imposed by Article III of the Convention. Of course, if we accept the principle of this Article, discussion of much of the remainder of the draft protocol becomes almost superfluous. I see no middle course between accepting and rejecting it.

Article 8. The language of this Article is obscure and its meaning uncertain but the considerations outlined under Article 7 above apply substantially to Article 8, with the addendum that, in the absence of a consolidated customs tariff in the Dominican Republic, this Article as drafted is so much "eye-wash." We have shown (my despatch No. 3511 of September 14, 1936,²⁰ page 3 *et seq.*), and the Dominican Government knows (last paragraph of my despatch No. 3600 of November 3, 1936²¹) that there is no practical limitation on this Government's tariff bargaining power except the *Modus Vivendi* of 1924. Further, it seems inadvisable to insert in the protocol the "one and one half" protective provision, since the external funded debt service in 1936 required only 39% of customs revenue (excluding internal revenue taxes on imports) or about 10.6% of the Dominican Government's total budget, and the cost of the Receivership is included in these percentages.

Article 9. A Fiscal Representative exercising the powers defined in the earlier articles of the draft protocol can hardly be held responsible for any accounts, save those relating to funds received (but not revenues collected) by him.

Article 10. Who is to formulate the *compromis* of arbitration if the two governments do not agree on its terms within the three months provided?

Article 11. The sweeping significance of the draft protocol is fully revealed in the first paragraph of this Article, purporting to make

¹⁹ See *Foreign Relations*, 1936, vol. v, pp. 435 ff.

²⁰ Not printed.

²¹ *Foreign Relations*, 1936, vol. v, p. 456.

effective at once and in advance of ratification, as "interpretations" of Articles III and IV of the Convention, the 7th and 8th Articles of the draft protocol.

These comments suggest the essential modifications which would have to be made in the proposed protocol if it is decided that the Fiscal Representative shall have real power to safeguard the interests of the bondholders. If, however, he is not to interfere with control by the Dominican Government over all its fiscal operations, the Dominican draft would seem to require but little change or, better said, it is evident that the Dominican proposals offer a practicable basis for an agreement upon the hypothesis that the Fiscal Representative is to be a screen for complete fiscal autonomy in this Republic.

I presume it would be possible to have the proposed Dominican National Bank perform the functions of the Fiscal Representative unless the bank scheme has recently been changed. In that event, it seems to be a case of putting the cart before the horse to discuss the proposed protocol (I should call it a treaty) in advance of the establishment of the National Bank and consultation with the management of the proposed Bank. The timeliness of the proposals embodied in the draft protocol is correspondingly doubtful.

The present urgency of the Dominican Government in pressing for the conclusion of the protocol and in responding so promptly to the Secretary's solicitation of proposals for revision of the Convention of 1924, is perhaps to be explained by the fact that the 1936 fiscal year ended with an operating deficit of nearly half a million dollars (see my strictly confidential despatch No. 3778 of February 22, 1937²²). It is doubtless a source of no little anxiety to President Trujillo to achieve the settlement represented by the proposed protocol and to achieve it at once. He feels he must have even greater freedom than at present to manipulate the finances, aside from the conspicuous political triumph the conclusion of such an agreement would afford him.

There is still, so far as I can see, no half-way station between enforcement and abandonment of the Convention of 1924. We have not enforced it. On the presumption that we will not enforce it, I see no advantage nor even international honesty in keeping up the fiction that the two governments concerned are governed by it. At the same time, I am well aware that the fiction remains a solace to a considerable body of informed opinion, not to mention bondholders and floating debt creditors of the Dominican Government.

Sincerely yours,

H. F. ARTHUR SCHOENFELD

²² Not printed.

839.51/4505a

*The Assistant Secretary of State (Welles) to the Dominican
Minister (Pastoriza)*

WASHINGTON, March 22, 1937.

MY DEAR DON ANDRÉS: With reference to the suggested protocol which Dr. Henríquez Ureña and you presented to the Department of State on February 11 last and to our recent conversation when you and Dr. Henríquez Ureña called to see me, I am enclosing two copies of a counterproposal which I submit to you as a basis for further conversations. I should like to make it clear that the suggested draft which I am thus submitting as a possible substitution for the Convention of 1924 between our two countries is offered without any commitment, merely as a basis for discussion and that it is, of course, as you will see, predicated upon a prior understanding between the Dominican Government and representatives of the holders of Dominican Government bonds.

I shall hold myself in readiness to discuss further this suggested draft at any time with Dr. Henríquez Ureña and yourself.

With my kindest regards [etc.]

SUMNER WELLES

[Enclosure]

*American Draft of a Counterproposal To Replace the Convention of
1924 Between the United States and the Dominican Republic*

WHEREAS the Convention between the Dominican Republic and the United States of America containing provisions for the aid of the United States in the collection and application of the customs revenues of the Dominican Republic was concluded and signed by their respective plenipotentiaries in the City of Washington on the twenty-seventh of December, 1924;

WHEREAS this Convention was concluded for the purpose of facilitating payment of the public debt of the Dominican Republic and subsequently the said debt has been reduced;

WHEREAS the Dominican Republic has arrived at an agreement with the Foreign Bondholders Protective Council, Incorporated, which has consented to an extension of the amortization periods for the bonds of the public debt, and to subject the capacity of the Dominican Republic to make amortization payments to a sliding scale in proportion to the increase of the customs revenues until January 1, 1939;

WHEREAS the Dominican Republic has represented that certain provisions in the Convention of 1924 may hinder the action of the

Dominican state in developing the natural resources of the country and in the progressive extension of its industry and commerce;

WHEREAS the Dominican Republic has requested the cooperation of the United States of America to enter into a new convention which shall take into account these circumstances and the new provisions agreed upon with regard to the manner of the payment of the public debt; and the United States is disposed to give such cooperation;

The United States of America, represented by

(Here follow the names and titles)

and the Government of the Dominican Republic, represented by

(Here follow the names and titles)

who, having communicated their respective full powers to each other, which have been found to be in good and due form, have agreed upon the following:

ARTICLE I

Punctual service of the external debt of the Dominican Republic shall constitute a charge upon the customs revenues of the Republic as set forth in Article III of this convention. Subject to the conditions and limitations accepted by bondholders in conformity with the agreement made on 1936, which are set forth in the bonds renewed under date of January 2 and February 2, 1937, and to the modifications introduced by the present convention, the Dominican Government shall maintain the guarantees and the general provisions stipulated in the original contracts for the existing external loans, and in the individual bonds of these loans, until payment has been made of each and every one of the bonds issued by the Dominican Republic.

ARTICLE II

Upon the termination of the Convention of 1924, as hereinafter provided in Article X of this Convention, the Dominican Republic shall entrust the collection and allocation of its customs revenues, with the sole authority and responsibility therefor, to a Customs Representative, who, with his principal assistants, not more than two in number, shall have been appointed for the purpose by the Executive Committee of Dominican Bondholders. Subsequent vacancies in the positions of Customs Representative and of his two principal assistants shall be filled by appointment by the President of the Dominican Republic from a panel submitted by the Executive Committee of Dominican Bondholders, of three names for each position vacated. The salaries of the Customs Representative and of his two principal assistants shall be established by virtue of an agreement between the Dominican Government and the Executive Committee of Dominican Bondholders.

The office of the Customs Representative shall deliver to the Fiscal Agent of the loan on the twentieth day of each calendar month a sum equal to the twelfth part of the annual interest on all the bonds issued and outstanding, and of the annual amounts indicated for the amortization of the said bonds in accordance with the provisions in force in any agreements now existing with the Foreign Bondholders Protective Council as modified by this convention.

ARTICLE III

The Office of the Customs Representative designated by the Executive Committee of Dominican Bondholders shall apply in the order indicated below the proceeds of the customs duties collected in the various customhouses of the Dominican Republic:

1. To the payment of the expenses of the office of the Customs Representative, but such amount shall in no case exceed five per cent of the customs collections. Upon the closure of the accounts of the Customs Representative's office at the end of the fiscal year, any unexpended balance under this item shall be turned over as an additional payment under item 5 of this Article to the Dominican Government;

2. To the payment of the interest on pending bonds;

3. To the payment of the annual amounts stipulated for the amortization of the said bonds, in conformity with the agreements in force on the day of signature of this convention, including the interest on all bonds retained as a sinking fund;

4. To the purchase and cancellation, or retirement and cancellation, of any of the said bonds in accordance with the terms thereof as may be decided by the Dominican Government;

5. The remainder shall be paid over to the Dominican Government.

ARTICLE IV

The office of the Customs Representative designated by the Executive Committee of Dominican Bondholders shall, in its direction of the functioning of the customhouses of the Republic, give due consideration to, and undertake to remedy, in the event that in its judgment such remedial action is required, any error or deficiency in the administration of the customs which may be brought to its attention by the Secretary of the Treasury of the Dominican Republic; it shall, moreover, keep an account of the statistical data of customs activities and the trade of the Republic with other countries; and shall make an annual report in the Spanish and the English languages which shall be submitted to the Dominican Government and to the Executive Committee of Dominican Bondholders.

The employees of the Dominican Customs Service, other than the principal assistants mentioned in Article II, shall be citizens of the Dominican Republic and appointed by the Customs Representative with the approval of the President of the Republic.

ARTICLE V

The Dominican Government shall render to the office of the Customs Representative designated by the Executive Committee of Dominican Bondholders all the aid and support that may be necessary as well as the broadest protection in the discharge of its duties and the exercise of the powers granted to it in the foregoing articles, adopting for that purpose such laws and regulations as may be necessary.

ARTICLE VI

Until the Dominican Republic shall have paid off all its outstanding bonds, the contractual public debt may not be increased by the contracting of new loans or an emission of new bond issues except by prior agreement between the Dominican Republic and the Executive Committee of Dominican Bondholders. However, the Dominican Government may enter into contracts and financial arrangements for the extension of public works and other services of national interest provided that they are adjusted to the following conditions:

1. As a guarantee of those contracts or financial arrangements, there shall be set aside the receipts from any given impost of the internal revenue, which is not later to form part of the customs revenue as provided in Article VII, and these receipts shall be accepted as the sole guarantee for the performance of such obligations; and

2. The maximum period for the liquidation of any of these contracts or financial arrangements may not be greater than four years beginning from the date upon which the contract or arrangement is concluded.

The Dominican Government expressly renounces the right provided in the Convention of December 27, 1924, to issue new bonds up to the limit of \$20,000,000. The Dominican Government may at any time freely dispose of the internal revenues and imposts not pledged as a guarantee for the payment of the public debt.

ARTICLE VII

With a view to establishing a more uniform and more scientific customs tariff, the Dominican Government will amalgamate into one schedule of customs duties the existing customs duties and the charges upon imports levied under the present laws governing internal revenue taxation.

The Dominican Government may thereafter modify its customs tariffs in accordance with the needs and advantage of its commerce, but pledges itself expressly not to reduce import duties at any time to such a point that, taking as a basis exports and imports of the same extent and kind for the two years preceding the year in which it is

desired to make such modification, the net total customs receipts under the tariff so modified would not have amounted for each of the two said years, to at least one and a half times the sum needed to insure the service of the interest and amortization of the public debt; unless it shall have previously segregated from its internal revenue receipts, from special imposts or other charges, other than customs duties, an amount equivalent to the reduction in total customs revenues resulting from proposed modifications of its customs tariffs. In such event, the Dominican Government shall on the twentieth of each calendar month deliver against receipt to the office of the Customs Representative designated by the Executive Committee of Dominican Bondholders from its internal revenue so segregated a sum equivalent to one-twelfth of the amount by which the annual customs revenues of the Republic shall have been diminished as the result of such customs tariff modification.

ARTICLE VIII

The office of the Customs Representative designated by the Executive Committee of Dominican Bondholders shall render accounts monthly to the Secretary of the Treasury of the Dominican Republic, to the fiscal agent of the loan, and to the Executive Committee of Dominican Bondholders, and the said accounts shall be subject to examination and auditing by the competent officials of the Dominican Government, by the fiscal agent, and by the Executive Committee of Dominican Bondholders.

ARTICLE IX

Every controversy which may arise between the Dominican Government and the Executive Committee of Dominican Bondholders in the execution of the stipulations of this Convention and which cannot be solved by negotiations between them, shall be the subject of diplomatic negotiation between the Government of the United States and the Government of the Dominican Republic. In the event that an agreement cannot be reached through diplomatic channels between the two Governments, such controversies shall be settled by arbitration. For the execution of this provision in each special case, the contracting parties shall, when the necessity for arbitration has once been determined, conclude a special agreement defining clearly the extent of the disagreement, the extent of the powers of the arbitrators, and the periods that are to be fixed for the organization of the arbitral tribunal and the various stages in the proceedings. The special agreement providing for arbitration must be signed in all cases within a period of six months from the date on which either of the contracting parties notifies the other contracting party of its desire to have recourse to arbitration. It is understood that such special agreement

shall be made on the part of the United States by the President of the United States by and with the consent of the Senate, and on the part of the Dominican Republic, it shall be subject to the procedure required by its constitution and laws.

ARTICLE X

This Convention shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The Convention shall take effect on the first day of the first month next ensuing upon the exchange of ratifications, which shall take place at, and upon that date, the convention signed between the Dominican Republic and the United States of America on December 27, 1924, shall cease to have effect.

Upon the payment in full of each and every one of the bonds issued by the Dominican Government of the loans referred to in this convention, the provisions of this convention shall automatically become null and void.

In witness whereof, the Plenipotentiaries have signed this Convention in duplicate, in the English and Spanish languages, both texts being authentic, and have hereunto affixed their seals.

Done at the City of Washington this day of, 1937.

839.51/4510½

Memorandum by the Assistant Secretary of State (Welles) to the Chief of the Division of Latin American Affairs (Duggan)

WASHINGTON, March 29, 1937.

MR. DUGGAN: Dr. Henríquez and Mr. Pastoriza came to see me this afternoon and left with me the attached draft²³ for my consideration.

You will see from it that it is their desire to postpone for further consideration the modification of the existing Convention of 1924, in so far as the elimination of the Receivership General is concerned, until they can determine, in their opinion, whether it is practicable to obtain the creation of an Executive Committee of the bondholders, and to negotiate without further delay a convention modifying the Convention of 1924 in those points which relate to the Dominican tariff and to the interpretation of the phrase "public debt of the Republic."

I see no objection to this procedure and I have so stated to them. I have not read this draft, which I wish you would have studied and

²³ *Infra*.

advise me if there are any material discrepancies between it and the project I gave them for their consideration.

S[UMNER] W[ELLES]

839.51/4510½

*Draft Convention Submitted by the Dominican Plenipotentiaries on
March 29, 1937*

[Translation]

WHEREAS the Convention between the Dominican Republic and the United States of America, containing provisions for the aid of the United States in the collection and application of the customs revenues of the Dominican Republic, was concluded and signed by their respective plenipotentiaries in the City of Washington on the twenty-seventh of December, 1924;

WHEREAS the Dominican Republic has declared that certain provisions of the Convention of 1924 may hinder the action of the Dominican State in developing the natural resources of the country and in the progressive extension of its industry and commerce;

WHEREAS one of these provisions stipulates that the Dominican public debt may not be increased until the bonds actually in circulation have been amortized; which provision, if no exception thereto be admitted, may create obstacles to the conclusion of financial arrangements aimed at the execution of public works which tend to the progress and well-being of the debtor nation and through this to the reinforcement of its capacity for payment;

WHEREAS another of these provisions forbids the Dominican Government to modify freely its customs tariff; and this provision designed to strengthen the customs revenues, which are applied to the service of the debt, may be substituted by another guarantee equally strong, such as that covering from the proceeds of other taxes the decrease which might result in the customs revenues in case that by reason of the modification of the customs tariff the amount of the said revenues should be reduced; and in exchange for offering this additional guarantee the Dominican State will always be in a position to develop without restrictions the economic policies which best suit its existing conditions;

WHEREAS the Dominican Republic has requested the cooperation of the United States of America to enter into a protocol complementing the said Convention, with a view to giving greater scope to the third and fourth clauses of the said instrument, which are those which contain the restrictions referred to; and the United States is disposed to give such cooperation;

The Dominican Republic represented by
.....
and the United States of America represented by
.....
who, having communicated their respective full powers to each other;
which have been found to be in good and due form, have agreed upon
the following:

ARTICLE I.

The third clause of the Convention concluded between the Dominican Republic and the United States of America under date of December 27, 1924, to regulate the form of payment of the Dominican public debt, shall read as follows:

Until the Dominican Republic shall have paid the total amount of the bonds of the loan, its contractual public debt may not be increased by the contracting of new loans and new emissions of bonds, except by prior agreement between the Dominican Government and the Government of the United States. Notwithstanding, the Dominican Government may enter into contracts and financial arrangements for the execution of public works or other services of national interest, providing they are adjusted to the following conditions:

1. As a guarantee of those contracts or financial arrangements, there shall be set aside the product of a given impost of the internal revenue service or of any other impost which is not reserved to the payment of the public debt, and it shall be stipulated that this product is the sole guarantee for the performance of this obligation; and
2. The maximum period for the liquidation of any of these contracts may not be greater than four years beginning from the date upon which the contract or arrangement is concluded.

Moreover, the Dominican Government may contract a new loan whose exclusive object is to convert, refund, consolidate or amortize the bonds existing by virtue of the former loans and to liquidate entirely its existing debt, agreeing with the new lenders to the stipulations which it may consider advisable and considering definitely terminated the validity of this Convention since once each and every one of the bonds which the Dominican Government emitted by virtue of the former loans, have been paid off entirely, the provisions of this Convention will become automatically null and void.

The Dominican Government expressly renounces the right which it possesses of emitting new bonds up to the limit of \$25,000,000 provided in this Convention. The Dominican Government may, at any time, freely dispose of the internal revenues and imposts not pledged as a guarantee for the payment of the public debt.

ARTICLE II.

The fourth clause of the same Convention of 1924 shall read as follows:

The Dominican Government may modify its customs tariffs in accordance with the needs and advantage of its commerce, but pledges itself expressly not to reduce import duties at any time to such a point that, taking as a basis exports and imports of the same extent and kind during the two years preceding the year in which it is desired to make such modification, the net total customs receipts, according to the tariff so modified, would not have amounted for each of the said two years, to at least one and one-half times the sum necessary to insure the service of the interest and amortization of its public debt, unless the said Dominican Government shall have previously segregated from the proceeds of its internal revenues, and special imposts which are not pledged, as are the customs duties, to the payment of the debt, an amount equivalent to the reduction in total customs revenues resulting from the proposed modifications of its customs tariff. In such event, the Dominican Government will not need to be guided by the formula stipulated; and on the twentieth of each calendar month shall place at the disposal of the General Receiver of Customs, a sum, segregated from its internal revenues and special imposts, equivalent to one-twelfth of the amount by which the annual customs revenues of the Republic shall have been diminished as a result of such customs tariff modification.

The present protocol complementary to the Convention of December 27, 1924, shall be ratified by the high contracting parties in accordance with their respective constitutional methods, and will enter into force as soon as the exchange of ratifications shall have been effected and will have the same duration as the said Convention may have.

In witness whereof the plenipotentiaries have signed this protocol in duplicate in the English and Spanish languages, both texts being authentic and have hereunto affixed their seals.

839.51/4520

The Dominican Minister (Pastoriza) to the Secretary of State

WASHINGTON, May 19, 1937.

MR. SECRETARY OF STATE: When I had the honor to initiate conversations with Your Excellency, in January of this year, together with Minister Henríquez Ureña, towards a complete revision of the 1924 Convention between the Dominican Republic and the United States

of America, I was deeply satisfied to hear Your Excellency express the sincere desire of the United States Government, in harmony with the "Good Neighbor" policy, to eliminate the said international instrument, which is the inheritance of the past.

Your Excellency thus confirmed with encouraging words the feeling which had already been expressed in Your Excellency's note of February 10, 1937, and set forth a fact of vital importance for the progress of such conversations, namely, that however deeply interested the Dominican Republic may be in recovering its full economic sovereignty, at present restricted in several aspects by certain provisions of the said Convention, which was consented to by previous representatives of the Republic at a time when conditions in our life as a nation were different—the interest of the United States Government is just as great toward freeing itself from the embarrassing interference implied by the assistance which it agreed to lend to the Dominican Republic and which at a given moment may have been considered necessary.

It is evident, therefore, that both our Governments coincide in considering the complete revision of the 1924 Convention as vitally essential to our reciprocal advantage, and in particular, the substitution of the machinery which it provides for the service of the Dominican public debt, inasmuch as the Convention and the organization thereby established are an obstacle to the free development of a broad-minded economic policy in the Republic; require the Government to surrender constitutional powers and prerogatives, which is contrary to the spirit and to the letter of the Constitution itself; and result in intervention on the part of the Government of the United States in the internal affairs of the Dominican nation. The Dominican Republic has valued to the extent of its worth, such assistance as has been rendered to it by the United States Government, because that assistance was requested by the Dominican Republic itself at a time now past; but the Dominican Government recognizes that the desire of the Government of the United States to free itself from the obligations and duties which the continuance of such assistance would entail, is fully justified, particularly so because, as a result of a radical change of conditions in our country, such help is no longer required.

Consequently, in accordance with such identical purposes and desires on the part of both Governments, conversations tending to the desired end have taken place at the State Department from January to date, but neither the first draft which we submitted for a proposed Convention, nor a counter-project submitted by the State Department, have permitted reaching an agreement acceptable to both parties; nor do we feel that any additional progress may be made through our sug-

gestion that the various points involved be separated in studying the problem before us, and that each be made the object of a separate convention, for even thus we have not been successful in reaching satisfactory formulae.

The Dominican Republic, in stating its desire to relieve the Government of the United States from the obligation to give assistance, and which it requested and obtained from that Government, is anxious to arrive at definite formulae which will eliminate all intervention on the part of the United States Government in our national economy. The methods thus far studied do not definitely solve the problem, and my Government consequently feels that it is preferable not to continue to take any of the drafts which have been submitted by either party as a basis of negotiation, and proposes to submit new suggestions to the United States Government in the near future, in order to continue the negotiations from a different point of view.

In announcing this intention to Your Excellency for consideration at an early opportunity, I avail myself [etc.]

ANDRÉS PASTORIZA

839.51/4520

*Memorandum by the Chief of the Division of the American Republics
(Duggan)*

[WASHINGTON,] May 25, 1937.

When the Dominican Minister was in to see me on Friday he mentioned that he was preparing a note to the Department on the subject of the negotiations to terminate the Convention of 1924. In the attached note²⁴ he states that his Government intends to submit "new suggestions" in the future as a basis of negotiation. Orally the Minister informed me that these suggestions would be along the line of the bank plan regarding which we have been negotiating with Haiti. The Government apparently intends to proceed immediately to purchase the bank, and once having acquired the bank will propose that the bank handle the collection and disbursement of customs. The Minister inquired whether the proposed bank contract looked satisfactory. I told him that if he meant satisfactory from the standpoint of the new plan which the Government has in mind for customs collections and disbursements the Department would have to give very careful consideration to it. The Minister then said that he would not suggest further study of the contract until after the Department had received his new suggestions.

L[AURENCE] D[UGGAN]

²⁴ *Supra*.

839.51/4520

The Acting Secretary of State to the Dominican Minister (Pastoriza)

WASHINGTON, May 29, 1937.

SIR: The receipt is acknowledged of your note of May 19, informing me that the Dominican Government prefers not to continue negotiations for the modification of the United States-Dominican Convention of 1924 upon the basis of the drafts which have recently been exchanged, but proposes to submit new suggestions in the near future to this Government in order to resume the negotiations from a different point of view.

In taking note of this statement, I may say that this procedure is satisfactory to this Government which will await with interest these new suggestions and which will be glad to examine them in a spirit of friendly cooperation.

Accept [etc.]

SUMNER WELLES

839.51/4532

The Dominican Legation to the Department of State

[Translation]

SUGGESTED CHANGES IN THE DOMINICAN PROJECT FOR THE NEW
DOMINICAN-AMERICAN CONVENTION

1.—The funds collected by the customhouses shall be deposited daily in the Branch Banks or Agencies of the National City Bank of New York in the Dominican Republic or of such bank as may be designated by mutual agreement between the Fiscal Agent and the Dominican Government. In accordance with law no. . . . passed by the Congress of the Dominican Republic under date of . . . the Bank which is the depositary of the funds collected by the customhouses of the Dominican Republic shall set aside in a special account which shall be called percent of the gross funds yielded by the customhouses, which funds shall be exclusively for discharging the service on the debt in the manner expressed below :

- a) For the payment of the office expenses of the Fiscal Representative of the debt;
- b) For the payment of the interest on all pending bonds;
- c) For the payment of the annual sums designated for the amortization of the said bonds, in accordance with the arrangements now in force, including the interest on all the bonds which are held as an amortization fund;
- d) For the purchase and cancellation or withdrawal of any of the said bonds in conformity with the terms thereof,

2.—The Foreign Bondholders Protective Council shall appoint a Fiscal Representative for the collection of the Dominican public debt and the bank designated by both parties as depositary shall deliver to the said Fiscal Representative on the 20th day of each natural month a sum equal to the 12th part of the annual interest on all the bonds issued and of the amounts designated for the amortization of the said bonds, in accordance with the agreements in force with the bondholders. In his turn the Fiscal Representative shall make delivery of the said sum to the Fiscal Agent of the loan.

3.—The Dominican Government, with a view to opening a better market to its bonds, agrees to provide, in accordance with law no. . . . of the Congress of the Dominican Republic, under date of . . . that, of the total of all the customs receipts and internal revenues, any sum in excess of \$ shall be assigned to the amortization fund for the purchase of its bonds on open market or by auction, as may be provided by the said Government.

839.51/4530

Memorandum by Mr. Selden Chapin of the Division of the American Republics

[WASHINGTON,] July 7, 1937.

Conversation: Señor Pastoriza, Minister of the Dominican Republic,
Mr. Duggan,
Mr. Chapin.

The Dominican Minister called by appointment to see Mr. Duggan in connection with his suggested additions to the draft protocol amending the 1924 Convention between the United States and the Dominican Republic.

In response to questioning Señor Pastoriza stated that his most recent suggestions were not to be taken by themselves as a protocol, but were to be incorporated with the previous suggestions for a protocol amending the Convention submitted by him and by Dr. Enríquez Ureña. Señor Pastoriza stated that the latest suggestions were purely unofficial and represented merely his own ideas since they had not been officially approved by his Government. Mr. Chapin pointed out that it was a little difficult to analyze the suggestions as they stood by themselves and that it would be preferable to see them physically incorporated with the other draft and to examine the modified draft as a whole. Señor Pastoriza stated he appreciated this and that this would be done subsequent to his return to the Dominican Republic. He added that he expected to leave at almost any time. Señor Pas-

toriza, in response to a question from Mr. Duggan, said that he was quite willing to insert another paragraph in his suggestions covering the rights and duties of the "Fiscal Representative" who was to replace the General Receiver of Customs. It was his idea that while the actual running of the customs would pass to the Dominican Government, the Fiscal Representative to be appointed by the Foreign Bondholders Protective Council would have the right to inspect at all times and to make known his recommendations to the Dominican Government. Señor Pastoriza was somewhat evasive as regards Mr. Duggan's direct question whether the Dominican Government would consider itself bound to accept the suggestions and recommendations of the Fiscal Representative in the case of the report of irregularities of other similar defects in the administration of the customs.

Mr. Duggan then presented Señor Pastoriza with copies of our latest trade agreements with Costa Rica²⁷ and El Salvador.²⁸ He suggested that the Minister might care to look them over, paying particular attention to the general provisions. Señor Pastoriza promised that he would refer them to his Government upon his return to the Dominican Republic with a view to determining whether the general provisions were satisfactory in principle to the Government. Mr. Duggan explained to the Minister that we were prepared to go ahead with exploratory conversations on a trade agreement touching these general provisions but that pending the final outcome of the sugar legislation nothing could be done with respect to granting a concession to the Dominican Republic on sugar or sugar products.

S[ELDEN] C[HAPIN]

839.51/4548 : Telegram

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

CIUDAD TRUJILLO, November 11, 1937 — noon.

[Received 4:05 p. m.]

40. Your telegram No. 28, November 10, 6 p. m.²⁹ See my air mail despatch No. 60, November 9,²⁹ forwarded last night reporting Foreign Minister's intention to reopen negotiations for revision of the 1924 convention on basis of preliminary consideration of the floating debt problem and respect for United States responsibility to bondholders.

²⁷ Signed November 28, 1936, Department of State Executive Agreement Series No. 102, or 50 Stat. 1582; see also *Foreign Relations*, 1936, vol. v, pp. 373 ff.

²⁸ Signed February 19, 1937, Department of State Executive Agreement Series No. 101, or 50 Stat. 156; for previous correspondence, see *ibid.*, pp. 558 ff.

²⁹ Not printed.

My reply to him was along the same lines as your press statement. An editorial in this morning's *Listin* refers to the convention as an "anachronism" and asks if the United States should not evidence its interest in the cancellation of this arrangement. No reference was made to your statement, a summary of which was published here yesterday.

Although the Foreign Minister tells me he was appointed by the President with the sole purpose of negotiating a revision of the 1924 convention, I feel that the primary reason for drafting him to the Foreign Office was the threatening situation with Haiti.³⁰ I also am of the opinion that this sudden cry for revision is an attempt to draw attention from the Dominican-Haitian dispute by evoking a fancied grievance against the United States.

NORWEB

³⁰ See pp. 132 ff.

ECUADOR

FORCED RESIGNATION OF PRESIDENT PAEZ OF ECUADOR; RECOGNITION OF THE ENRIQUEZ GOVERNMENT

822.00/1172 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, July 16, 1937—5 p. m.

[Received 9 : 35 p. m.]

32. The demands of the armed forces to strengthen the Government culminated today in the resignation of the Cabinet. Minister for Foreign Affairs and Minister of Public Works will probably continue in office but military officers will replace the others. It is reliably reported that the President is resentful of the interference of the military and their opposition to the holding of the Assembly and that there will be further developments.

GONZALEZ

822.00 Revolutions/84 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, October 23, 1937—9 a. m.

[Received 2 : 05 p. m.]

61. The Army resolved that the Assembly is not representative of the people whereupon early this morning General Enriquez ¹ forced the resignation of Paez ² and assumed the supreme power pending the convocation of a new assembly duly elected by the political parties. It is rumored that there is division of opinion in the armed forces and that further developments may be expected.

GONZALEZ

822.00 Revolutions/85 : Telegram

The Consul General at Guayaquil (McDonough) to the Secretary of State

GUAYAQUIL, October 23, 1937—10 a. m.

[Received 1 : 20 p. m.]

The following telegram has been sent to the Legation at Quito :

October 23, 9 a. m. Military authorities inform me that *coup d'état* by General Enriquez is accepted by local garrison. All is quiet

¹ G. Alberto Enriquez.

² Federico Paez, Acting President of Ecuador.

here, there have been no disorders. Military authorities headquarters further inform me that Colonel Icaza³ is to be Minister of National Defense and Victor Emilio Estrada will probably be Minister of Hacienda”.

McDONOUGH

822.00 Revolutions/86 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, October 24, 1937—4 p. m.

[Received October 25—9 : 15 a. m.]

62. Referring to my telegram No. 61, October 23, 9 a. m., *coup d'état* consummated without any apparent opposition. Three army officers have been appointed to the Cabinet including the previous Minister of Finance who is acting as Foreign Minister. In view of the announced intention to remove corrupt elements which was the ostensible reason for the movement, many changes in Government officers are expected.

Inasmuch as constitutional succession was disregarded the question of recognition arises upon which I shall report fully.

GONZALEZ

822.00 Revolutions/86 : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, October 27, 1937—7 p. m.

48. Your 62, October 24, 4 p. m. Please cable briefly principal points covered in your report referred to in paragraph 2, stating whether in your opinion the new government has the substantial support of public opinion in Ecuador, whether it is able to discharge the normal functions of government, whether it is capable of maintaining public order and whether it intends to comply with its international obligations.

You should report promptly any indications that may be obtained discreetly as to recognition of new government by other nations having accredited representatives in Quito. Pending authorization from the Department, you should avoid any action which might be construed as constituting recognition by this Government of the new Ecuadoran Government.

HULL

³ Col. Pedro Icaza, Commandant of the Guayaquil Military Zone.

822.00 Revolutions/89

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

[WASHINGTON,] October 27, 1937.

The Ambassador of Ecuador ⁴ called to see me this morning. The Ambassador read to me two cables which he had just received from his Government in which it was made clear that the Ambassador would be requested to stay on in his present capacity in Washington, although most of the other diplomatic representatives of Ecuador abroad would have their resignations accepted. Captain Alfaro made it evident to me that he is on the most intimate personal relations with Colonel Enriquez, the new head of the Government of Ecuador. He stated that in his judgment Colonel Enriquez would be a more efficient president under present conditions than his predecessor, although he expressed the greatest admiration and confidence in the integrity of ex-President Paez.

The Ambassador stated that the cabinet was now complete with the exception of the Minister for Foreign Affairs, and he told me that he understood that Señor Francisco Guarderas, former Minister of Ecuador in Brazil and one of the delegates of Ecuador at the Buenos Aires Conference,⁵ would be appointed to that position. He stated that the new set-up involved no change in political color. He said that the new President was very open minded and pacific with regard to the settlement of the boundary controversy with Peru.⁶ In that connection he said that he was urging that the three Ecuadorean delegates engaged in the negotiations in Washington be continued in office.

The Ambassador said that no change in policy with regard to the Vatican would be undertaken.

He expressed concern at the report that all political refugees would be permitted to return to Ecuador . . . would inevitably promote disturbances. In conclusion he said, however, that he anticipated a period of complete quiet and stability for some months to come and that he intended himself before long to fly down to Ecuador for a personal summary of the situation.

He said that he had no instructions to ask recognition, and I replied that for the time being we were in a position of expectancy in order that we might determine our own policy with regard to recognition. I made it evident that the sole considerations this Government would have in mind would be the substantial support

⁴ Colón Eloy Alfaro.

⁵ See *Foreign Relations*, 1936, vol. v, pp. 3 ff.

⁶ See pp. 46 ff.

on the part of the people of Ecuador for the new Government, the ability of the new regime to maintain public order and to carry out the normal functions of government, and its determination to comply with its international obligations.

S[UMNER] W[ELLES]

822.00 Revolutions /90

The Minister in Ecuador (Gonzalez) to the Secretary of State

No. 941

QUITO, October 27, 1937.

[Received November 5.]

SIR: In confirmation of my telegrams No. 61 of October 23, 9 a. m., 1937, and No. 62 of October 24, 4 p. m., 1937, I have the honor to report that the political situation which became acute on October 18th with the resignation of General G. Alberto Enriquez, Minister of National Defense, culminated on the morning of October 23rd in the resignation of the Acting Constitutional President, Federico Páez, the dissolution of the Constituent Assembly, and the assumption of the Supreme Power by General Enriquez.

It is still not certain as to what were the fundamental reasons which caused the change in Government. The most persistent reports are that during the celebrations at Guayaquil on October 9th, which were attended by the President and most of the Cabinet, General Enriquez was informed by certain prominent persons of that city of many incorrections in the Government involving malfeasance of office, bribery and graft. One or two notable cases were reported . . . It is said that upon the return of General Enriquez he prepared a four hundred page report setting forth the charges against different officers which was submitted to the consideration of President Páez. Apparently the action taken by the President was not satisfactory to General Enriquez who resigned on the 18th of October and left the city. President Páez went to the country place of Enriquez that evening and induced him to withdraw his resignation. The only information reported in the press during the following days was to the effect that the resignation had been due to a difference of opinion on administrative matters.

However, on the evening of October 22nd it was apparent that the situation had reached a point where important developments must follow. It is reported that General Enriquez, supported by the Minister of Finance, insisted upon the immediate removal of many Government and Semi-Government officials and the immediate dissolution of the Constituent Assembly. It is understood that President Páez was disposed to accede to the first suggestion, but that

as concerned the Assembly he categorically refused to take any steps looking toward its dissolution. He held that the Assembly was entirely of his making and that, therefore, he could not and would not dissolve it. The Department will recall that the Armed Forces were never in accord with the convocation of the Assembly. It is reported that while Colonel Salgado, the Minister of Government, and Lieutenant-Colonel Guerrero, the Minister of Social Prevision, were opposed to the holding of the Assembly, they were of the opinion that the Assembly should not now be dissolved. This opposition to General Enriquez subsequently resulted in the retirement of these two officers from the Government.

The exact nature of the dissatisfaction of General Enriquez with the Assembly is not yet clear. It is reported that he was primarily displeased with the fact that the Assembly has been in session some two months without accomplishing anything definite. Also, individual members were accused of improper practices contrary to the best interests of the State. However, more important was the fact that the Assembly was not representative of the country in view of the abstention of the organized political parties in its election.

An important factor in the developments of Saturday morning was that President Páez was not at all desirous of continuing as the Chief Executive of the Nation which position he has made clear on innumerable occasions both publicly and privately. It is reliably reported that if he had wished to continue in power he could have done so since he had the support of the majority of the armed forces. He finally decided that he would withdraw and he presented his resignation to the Constituent Assembly which had appointed him Constitutional President *ad interim*. Upon this decision a committee of ten high army officers resolved to allow General Enriquez to assume the Supreme Power and to ignore the Constituent Assembly. The decree announcing this action stated that General Enriquez had assumed the Supreme Power pending the convocation of a new Assembly elected by the duly organized political parties. A further decree adopted the 1906 Constitution in so far as its provisions are not contrary to the purposes of the new Government.

The situation on Saturday morning was potentially critical in view of the fact that division of opinion existed among the armed forces. It is reported that the majority preferred that President Páez continue as the head of the Government. However, when the President made it clear that he was determined to retire to private life, this had a steadying influence on subsequent developments.

During the course of the day a Manifesto was issued stating the reasons why the Army had again assumed the Supreme Power. The substance of this statement was that the Government had degenerated

into cliques which were enriching themselves at the expense of the nation.

In view of the decision of the President to withdraw, all of the Cabinet remained loyal to Páez and resigned, with the exception of Lieutenant-Colonel Heliodoro Sáenz who was immediately reappointed Minister of Finance and temporarily charged with the Ministry of Foreign Affairs. Lieutenant-Colonel Jorge Quintana was appointed Minister of Government and Colonel Guillermo Freile Cruz, Chief of Staff, was appointed Minister of National Defense. It is generally understood that General Enriquez desires Carlos Manuel Larrea, the former Minister for Foreign Affairs, to continue in that post. The latter, out of personal loyalty to President Páez, has repeatedly refused but this morning's press indicates that he will probably accept.

The President of the Constituent Assembly, Alberto Donoso Cobo, was arrested. He was subsequently released but yesterday he was again put in prison. The nature of the charges against him have not been revealed. Alberto Wither Navarro, President of the Central Bank of Ecuador and former Minister of Finance, has also been arrested. The Government revealed that the charges against him are in connection with a decree issued while he was Minister of Finance involving the payment of 400,000 sucres by the Government to the Central Bank. This morning's press contains a statement by the Directors of that bank which indicates that the transaction was entirely correct. Under the circumstances it is thought that Mr. Wither is being held in prison because of his outspoken antipathy toward General Enriquez. It is known that these two gentlemen have had many personal disagreements because of the excessive expenditures by General Enriquez for armaments. Also, it is reliably reported that Mr. Wither actively advocated armed resistance to the pretensions of General Enriquez to assume power on the morning of October 23rd.

It is anticipated from current reports that the Board of Directors of the Central Bank as well as that of the Mortgage Bank will be required to resign. A commission has already been appointed to investigate the operations of the former and a like one will probably be designated in the near future to examine into the affairs of the Mortgage Bank. It is expected that other committees will investigate the contracts concluded by the former Minister of Public Works with the purpose of determining whether they are to the best interests of the State and, particularly, whether there has been any bribery. The Scotoni contract^s for the construction of the Esmeraldas Railway

^s This contract was between Eugene and Edwin Scotoni, citizens of Switzerland, and the Ecuadoran Government, for the completion of the railroad between Quito and the port of San Lorenzo in the province of Esmeraldas.

will receive particular attention. It is said that the German merchandise credit arrangement is being studied with a view to its repudiation.

Respectfully yours,

ANTONIO C. GONZALEZ

822.00 Revolutions/87 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, October 28, 1937—8 p. m.
[Received October 29—2: 15 a. m.]

63. Referring to Department's telegram No. 48, October 27, 7 p. m. Carlos Manuel Larrea took office today as Minister for Foreign Affairs and has sent a note informing me of the change of government. He states that complete tranquility and order prevails and that the Ecuadorean Government in its foreign relations "proposes to continue its policy of respect for law and the inviolability of international treaties and conventions. It desires to offer to all nations its friendly cooperation for the normal development of cultural and commercial interchange and for the preservation of peace and progress." He concludes with the statement that his Government will be pleased to continue cultivating the good relations of friendship which it happily maintains with the United States.

The situation is not yet sufficiently clarified to permit a categorical answer on the points raised by the Department. However, consensus of opinion seems to be that the new regime is not competent to cope with the situation and that open dissension may develop within the armed forces. For the moment public opinion is apathetic and awaiting developments.

Diplomatic Corps with the exception of the French seems reluctant to make favorable recommendation.

GONZALEZ

822.00 Revolutions/88 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, October 29, 1937—noon.
[Received 10: 30 p. m.]

64. Referring to my telegram No. 63, October 28, 8 p. m., Colombia and Mexico recognized yesterday. Peru, Great Britain, Panama, and Venezuela have indicated that they are awaiting action by the United States.

It is still not certain that present stability will continue for any considerable period. Attempts to reform, to punish former officials,

and to lower the price of foodstuffs naturally will elicit opposition in some circles, but it is believed these measures will receive general approval. The holding of new elections would obtain the support of the political parties but this step probably will not be taken within the near future. Consequently it is my opinion that a military dictatorship under one guise or another will continue in power in Ecuador for some time to come with possible occasional changes in the supreme chief. The question, therefore, would seem to be the recognition of that form of government which apparently is accepted by the people of Ecuador because (1st) they have no other choice and (2d) they seem resigned to the fact that constitutional government cannot be had. Accordingly we shall probably have to continue to deal with this form of government.

GONZALEZ

822.01/82a : Telegram

The Acting Secretary of State to the Ambassador in Chile (Philip)^a

WASHINGTON, October 29, 1937—3 p. m.

41. The new Government of Ecuador has officially advised the American Legation at Quito of the change in government. By means of a note signed by the Minister of Foreign Affairs it advises this Government that complete tranquillity and order prevail and that the Government of Ecuador in its foreign relations "proposes to continue its policy of respect for law and the inviolability of international treaties and conventions. It desires to offer to all nations its friendly cooperation for the normal development of cultural and commercial interchange and for the preservation of peace and progress."

Before reaching a determination as to recognition of the new government, the Department will appreciate having for its confidential information advice as to the intention of the Government of Chile in this regard and such information as it may have obtained and be willing to offer as to the probable stability of the new government.

WELLES

822.01/84 : Telegram

The Minister in Colombia (Dawson) to the Secretary of State

BOGOTÁ, October 30, 1937—11 a. m.

[Received 2:17 p. m.]

56. Department's telegram No. 29, October 29, 3 p. m.¹⁰ The following very confidential information has been obtained this morning

^a The same telegram, *mutatis mutandis*, October 29, 3 p. m., to the Ambassador in Peru as No. 54, and to the Minister in Colombia as No. 29.

¹⁰ See footnote 9, above.

from the Minister of Foreign Affairs: Some days ago the Papal Nuncio in Quito suggested to the Colombian Minister that Colombia and the Vatican join in extending formal recognition to the new regime. The purpose of this suggestion was apparently to counteract opposition in Ecuadoran radical circles to the recent *modus vivendi* between the Vatican and Ecuador the negotiation of which was supported by Colombia with a view to improving its position as respects the revision of its own concordat since the Vatican could hardly refuse to Colombia concessions made to Ecuador. Under date of October 26 the Colombian Government instructed its Minister in Quito that while neither formal nor joint recognition was contemplated he was authorized to extend *de facto* recognition by continuing normal relations with the Ecuadoran Foreign Office. He was further authorized to inform General Enriquez that Colombia would view with satisfaction the continuation of Ecuador's friendly relations with the church as provided for in the recent *modus vivendi*. As respects the outlook for the new regime the Minister for Foreign Affairs said that on the whole his impression is favorable and that according to his information General Enriquez was as Minister of War the real power in the former regime, that he seeks for his new government a broader basis of popular support by enlisting the cooperation of the various parties instead of relying entirely on the army and that barring untoward contingencies such a regime should offer better prospects of stability than the previous one.

DAWSON

822.01/83 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, October 30, 1937—1 p. m.

[Received 2:30 p. m.]

67. Department's 41, October 29, 3 p. m. The Under Secretary of Foreign Affairs informs me that his Government has requested Ambassador Trucco¹¹ today to ascertain the Department's views as to the possibility of difficulties arising with the new Ecuadoran Government in the matter of the pending boundary dispute between Ecuador and Peru.

Apart from this uncertainty the Government of Chile entertains no objection which would delay an immediate recognition of the new Government. Its advices as to the stability of the new Government are all that could be desired and it views with satisfaction the decision to retain in office the Foreign Minister who served in the Paez Cabinet.

PHILIP

¹¹ Manuel Trucco, Chilean Ambassador in the United States.

822.01/87

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

[WASHINGTON,] November 1, 1937.

The Ambassador of Chile called upon me today by instruction of his Government. The Ambassador said that the Government of Chile was preoccupied with the possible difficulties that might arise in the negotiations between Peru and Ecuador for the settlement of their boundary controversy as a result of the installation of the new government headed by Colonel Enriquez in Ecuador. The Ambassador asked if I would let him have the views of this Government with regard to the extension of recognition to the new regime.

I told the Ambassador that his coming was a very happy coincidence, since on Saturday evening I had made exactly the same move vis-à-vis Chile by sending a cable to our Ambassador in Santiago asking him to inquire of the Government of Chile what its views in this same matter might be. I told the Ambassador of the reply received today from Ambassador Philip and expressed my particular appreciation of the friendly advice and information given us by his Government. I said that in view of the information received, this Government had determined to instruct the American Minister in Quito tomorrow, November 2, to advise the new government of Ecuador that the United States was pleased to continue friendly relations with that Government. The Ambassador expressed his gratitude for the information given and said that he would at once cable his Government in that sense.

S[UMNER] W[ELLES]

822.01/85 : Telegram

The Ambassador in Peru (Steinhardt) to the Secretary of State

LIMA, November 1, 1937—1 p. m.

[Received 4:43 p. m.]

64. Department's telegram No. 54, October 29, 3 p. m.¹² The Government of Peru which has consulted Argentina, Brazil and Chile as to recognition of the new Ecuadoran Government, is awaiting action by them. Because of the boundary dispute Peru does not wish to take independent action which can be construed as having been occasioned by the boundary question. Brazil having already acted, it is probable that if Argentina and Chile recognize, Peru will promptly do the same.

¹² See footnote 9, p. 475.

The Peruvian Government has purposely not consulted the United States on the subject of recognition in order not to embarrass Washington in view of its position in the boundary question.

Although disturbed moderately by reports of continued arming in Ecuador, parades with inflammatory speeches and a new military government, Peru will not seek to hinder recognition in any way and will follow the lead of the other South American countries.

The Peruvian Government is satisfied with the new Ecuadoran Government and insofar as it is able to appraise the present situation, has confidence in its probable stability. There is no evidence in Government or army circles of any intention to take any action as a result of the change of Government in Ecuador which might tend to aggravate the boundary dispute. There have been no unusual military movements or purchases of arms and munitions and virtually no newspaper comment.

STEINHARDT

822.01/84 : Telegram

The Acting Secretary of State to the Minister in Colombia (Dawson)

WASHINGTON, November 1, 1937—4 p. m.

30. With reference to your 56, October 30, 11 a. m., please inform the Minister for Foreign Affairs that the American Minister in Quito will be instructed tomorrow to inform the Minister for Foreign Affairs of the new Government of Ecuador that the Government of the United States will be pleased to maintain with the Government of Ecuador the cordial relations that have existed between the two countries.

WELLES

822.01/83 : Telegram

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

WASHINGTON, November 1, 1937—4 p. m.

42. Your 66 [67], October 30, 1 p. m. Please inform the Minister for Foreign Affairs of the appreciation of this Government of the views which he was good enough to communicate to you for the Department's advice. You may say that the American Minister in Quito will be instructed tomorrow to inform the Minister for Foreign Affairs of the new Government of Ecuador that the Government of the United States will be pleased to maintain with the Government of Ecuador the cordial relations that have existed between the two countries.

In connection with the first paragraph of your telegram under reference, you may say that I have been advised by the Ambassador of Ecuador that his Government in its foreign relations intends to pursue the same policy as that employed by the preceding Government, and that it is his understanding that the present delegates of Ecuador in the Washington boundary negotiations will be retained in that capacity. I am not advised of any particular difficulties now envisaged.

WELLES

822.01/86 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, November 2, 1937—9 a. m.

[Received 11:50 a. m.]

67. Referring to my telegram #64, October 29, noon, Italy, Brazil, Venezuela and Bolivia recognized yesterday and Panama is doing so today.

Associated Press despatch under Washington date line November 1st, asserts that United States will probably take action today but that it is not known whether it will be in the form of an official notification of recognition or merely a "continuation of normal relations". Please advise by cable.

GONZALEZ

822.01/82 : Telegram

The Acting Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, November 2, 1937—noon.

50. Your 63, October 28, 8 p. m., and 64, October 29, 12 noon. You should deliver the following note in reply to the note received from the Minister for Foreign Affairs of the new government:

"I have the honor to acknowledge the receipt of Your Excellency's note of (insert date) in which you inform me of the formation of a new government, and of your appointment as Minister for Foreign Affairs.

"In view of the statements contained in your note under reference, that in the conduct of its foreign relations the Ecuadoran Government proposes to continue its policy of respect for law and the inviolability of international treaties and conventions and desires to offer to all nations its friendly cooperation for the normal development of cultural and commercial interchange and for the preservation of peace and progress, my Government has instructed me to state that it will be pleased to continue to maintain with the Government of

Ecuador the cordial relations that have happily existed between our two countries."

WELLES

822.01/85 : Telegram

*The Acting Secretary of State to the Ambassador in Peru
(Steinhardt)*

WASHINGTON, November 2, 1937—noon.

55. Your 64, November 1, 1 p. m. You may inform the Minister for Foreign Affairs of the appreciation of this Government for the considerate attitude adopted by the Government of Peru as indicated in the second paragraph of your telegram under reference. You may add that in view of the information which this Government has received concerning the situation in Ecuador, the apparent stability of the new government, and by reason of the latter's declared intention to respect its international obligations, the Government of the United States is today instructing the American Minister in Quito to advise the new government of Ecuador of the pleasure with which the Government of the United States will continue its cordial relations with the Government of Ecuador.

WELLES

822.01/93

The Minister in Ecuador (Gonzalez) to the Secretary of State

No. 950

QUITO, November 3, 1937.

[Received November 11.]

SIR: With relation to the Department's cable No. 50 of November 2, 12 noon, 1937, I have the honor to transmit herewith a copy of the note ¹³ presented to the Minister of Foreign Affairs in accordance with said cable and upon receipt of his acknowledgement same will be forwarded to the Department.

I am annexing two articles ^{13a} which appeared in the local newspapers, *El Comercio* and *El Dia*, this morning emanating from the Associated Press in the case of *El Comercio* and that from *El Dia* from an unknown source. It is quite significant that these newspapers apparently had information that the United States Government was going to recognize Ecuador before this Legation had an opportunity to even receive or decipher the cable, and it is surprising how the local

¹³ Not printed.

^{13a} Not reprinted.

newspapers were able to obtain this information before it was officially received here. You will note from the article attached and which appeared in *El Día* that the wording is the same as the concluding statement of the cable. Whether or not said wording was obtained locally from the cable of the Department before receipt thereof by the Legation is not known but does seem strange. From information gathered it seems that everyone here knew of the contemplated action to be taken by our Government before knowledge thereof was brought to this Legation, and especially in view of the fact that in the Department's cable No. 48 of October 27, 7 p. m., it was stated that pending authorization from the Department, which meant receipt, that no action should be taken which might be construed as constituting recognition.

Respectfully yours,

ANTONIO C. GONZALEZ

NEGOTIATIONS RESPECTING A TRADE AGREEMENT BETWEEN THE
UNITED STATES AND ECUADOR¹⁴

611.2231/96

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 652

QUITO, December 30, 1936.

[Received January 8, 1937.]

SIR: I have the honor to refer to the Department's telegram No. 44 of December 24, 3 p. m., 1936,¹⁵ directing that I inform the authorities that the American Government is now prepared to initiate negotiations with a view to the conclusion of a beneficial trade agreement, and that I obtain their acquiescence to the proposed announcement of intention to negotiate as outlined in paragraph one of the said telegram.

In compliance with this instruction I explained to the Minister for Foreign Affairs on the afternoon of December 28th our procedure in the premises and I delivered to him my note No. 143, a copy of which is enclosed herewith.¹⁶ He stated that he perceived no objection to the procedure outlined, but that he desired to consult with the Minister of Finance before committing his Government.

On Tuesday evening the Under Secretary for Foreign Affairs informed me orally that the proposed public announcement was agreeable to Ecuador and that I would receive a note on the following day confirming his assurance. Accordingly, I sent my telegram No. 63, December 29th, 7 p. m., 1936,¹⁷ reporting these assurances so that the

¹⁴ For previous correspondence, see *Foreign Relations*, 1936, vol. v, pp. 503 ff.

¹⁵ *Ibid.*, p. 516.

¹⁶ Not printed.

¹⁷ *Foreign Relations*, 1936, vol. v, p. 517.

Department might have sufficient time to prepare the announcement for publication on January 2, 1937.

This afternoon I received note No. 151 from the Foreign Minister and I enclose herewith a copy with English translation.¹⁸ It will be observed that formal assent is given to the proposed public announcement¹⁹ outlined by the Department.

Respectfully yours,

EDWARD J. SPARKS

611.2231/99

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 660

QUITO, January 8, 1937.

[Received January 19.]

SIR: I have the honor to report the substance of an informal conversation which I had this afternoon with Dr. Francisco Banda, Chief of the Commercial and Consular Section of the Ecuadorean Foreign Office. The conversation is of importance inasmuch as Dr. Banda is the presiding officer of the Permanent Committee for Studying Commercial Treaties (see despatch No. 366, May 12, 1936¹⁸).

In the course of the conversation Dr. Banda stated that he desired to talk with me regarding the contemplated trade agreement with Ecuador, and particularly our unconditional most-favored-nation clause. After going into considerable detail in describing the trade relations and policy of his Government, he finally inquired whether it would be feasible to grant the customs concessions which the United States might seek in such a manner as would avoid the publication of the agreement. He frankly admitted that the purpose in view was to avoid publicity so that other nations enjoying most-favored-nation treatment with Ecuador might not request the extension to them of the concessions granted.

I told Dr. Banda that this was a matter upon which I should have to consult with the Department. However, I did point out that in my personal opinion agreements concluded under the authority of the Trade Agreements Act must be publicly proclaimed by the President of the United States before becoming effective, and that this procedure, if correct, would seem to preclude the conclusion of a secret trade agreement. It did not seem necessary to point out how impossible it would be to maintain such an agreement secret, but I did feel it desirable to reiterate the principles of American commercial policy which also seem to preclude the contemplation of the

¹⁸ Not printed.

¹⁹ Department of State, *Press Releases*, January 9, 1937, p. 16.

procedure proposed. I explained that our policy is based upon the principle of non-discriminatory treatment in view of which we neither ask nor accord preferential discriminatory treatment. In fact, through the application of our unconditional most-favored-nation clause, we automatically extend to all nations not discriminating against our trade the concessions we grant to any third country. I added that while we are primarily concerned with the treatment which Ecuador will accord to our commerce by virtue of the contemplated trade agreement, namely, that certain reductions in customs rates are granted and equality of treatment is assured on advantages now or in the future granted to any third country, I felt that my Government, in line with its commercial policy, could not view with favor the negotiation of a secret trade agreement providing for a preferential discriminatory treatment for American products.

Dr. Banda then stated that as our trade leaves an active balance for Ecuador, the United States is entitled to enjoy under Ecuadorean commercial policy the treatment granted to the most favored nation. Moreover, it is the desire of his country to grant us the concessions that may interest us. However, it wishes to consider such concessions as bilateral and not extend them to all countries. He added in this connection that Ecuador has already denied the extension to Germany of the Chilean advantages (see despatch No. 563 of October 13, 1936²⁰), and that his Government has maintained that position.

The question raised by Dr. Banda is complicated in some respects. From one point of view it would be advantageous to the United States if Ecuador refused to extend the tariff concessions it may grant to the United States, but I am convinced that the Department would not be prepared to enter into a secret agreement for such concessions. Also, instruction No. 114 of March 27, 1936,²⁰ indicates clearly that our commercial policy is to discourage preferential discriminatory treatment, as such an agreement must necessarily provide, with the ultimate objective of re-establishing triangular or multilateral international trade as opposed to the bilateral theory.

In my despatch No. 563 of October 13, 1936, I reported the remarks of Dr. Banda with regard to his interpretation of the unconditional most-favored-nation principle. It is my impression that Dr. Banda understands well the principle involved, and that he is simply and hopefully seeking some formula which will permit the inclusion in our contemplated agreement of the conflicting principles of Ecuadorean preferential discriminatory treatment and American non-discriminatory treatment.

²⁰ Not printed.

While I do not anticipate any difficulty, I should appreciate having the Department's instructions in the premises in the event that Dr. Banda should again bring up the question. The Department may desire to have it clearly understood in an informal manner that we should prefer that Ecuador made no exception in the application of the unconditional most-favored-nation principle with other countries with the end in view that such precedents might not later be adduced as vitiating the principle. We recognize that such interpretation or application is a matter for Ecuador to determine according to its national interests. However, as concerns the application of the principle in American-Ecuadorean trade relations, we are vitally concerned and are agreed that in the application thereof no exception is admissible.

Respectfully yours,

EDWARD J. SPARKS

611.2231/103

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 671

QUITO, January 19, 1937.

[Received January 27.]

SIR: With reference to previous despatches reporting the desire of Ecuador to obtain a reduction in the existing customs duties on naranjilla juice imported into the United States, I have the honor to state that steps are now being taken with a view to cultivating this fruit on a large scale for export purposes. A company has already been organized, "Compañía Naranjillera del Ecuador, S. A.," which has concluded with the Government of Ecuador a contract providing for the special privileges authorized by the Law of October 5, 1921,²² for companies attempting to establish new industries in the country. This contract is published in the *Registro Oficial* No. 377 of December 30, 1936, the date of the agreement. Under the terms of the contract the company is exempted for a period of ten years from the payment of import duties on all machinery and supplies necessary for the development of the industry, and of export taxes.

I am informed that Dr. Guerrero Martinez, who holds the fishing and hunting concession in the Galapagos Islands, is at present negotiating with the company. It is understood that he would attempt to interest a large American company which would furnish the capital necessary to develop immediately the cultivation of the naranjilla on a large scale. The said company would undertake to introduce the naranjilla in the United States and commit itself to purchase the entire output of the Ecuadorean company. Dr. Guerrero

²² Ecuador, *Anuario de Legislación Ecuatoriana*, 1921, pt. 1 (Quito, 1922), p. 158.

expressed the belief that the bases exist for a mutually profitable business provided that a substantial reduction can be obtained in the present import duties on fruit juices.

In view of the foregoing and previous conversations I have had with the authorities on this subject, it is my opinion that Ecuador will exhibit considerable interest in obtaining a reduction in the present duties on naranjilla juice which are understood to be seventy cents per gallon, plus five dollars per proof gallon on the alcoholic content. I further believe that if it is at all feasible to grant an appreciable concession on this article, it will facilitate considerably obtaining concessions in this country on articles in which we may be interested.

Respectfully yours,

EDWARD J. SPARKS

611.2231/106a : Telegram

The Secretary of State to the Chargé in Ecuador (Sparks)

WASHINGTON, January 25, 1937—6 p. m.

5. Referring to the Department's telegrams Nos. 44, December 24, 3 p. m.,²³ and 1, January 6, 6 p. m.,²⁴ and in accordance with the procedure outlined briefly to you in the Department's telegram No. 44 informal suggestions from the public in the United States concerning products to be considered in connection with the proposed trade agreement with Ecuador will be received by this Government until February 4. Shortly thereafter we wish to be able to release a list of products in regard to which the United States will consider the granting of concessions to Ecuador, such list to accompany formal public announcement of intention to negotiate a trade agreement and fixing dates for the presentation of formal briefs and for oral hearings.

You are requested to ask the Ecuadoran Government to submit as soon as possible descriptions of any products, in addition to those it has already brought to this Government's attention (as reported in your despatch No. 632 of December 14, 1936²⁵), in which it is interested in obtaining tariff reductions or bindings in the agreement. You should point out to the Ecuadoran Government in this connection that the general practice of the United States is to limit the concessions which it grants to a country to products of which that country supplies a principal or an important proportion of the total imports of each of such products into the United States. Bearing this general practice in mind the list submitted by the Ecuadoran Government

²³ *Foreign Relations*, 1936, vol. v, p. 516.

²⁴ Not printed.

²⁵ *Foreign Relations*, 1936, vol. v, p. 511.

should be established with as great care as possible since it will be difficult to add any new items to it once it has been made public. It should however be clearly understood that the proposed publication of a list of products in connection with the formal announcement of intention to negotiate a trade agreement will not constitute a commitment by this Government to grant concessions in respect of all of the products so listed. The purpose of publishing the list is to give notice to the American public of all the products under consideration as possible subjects for the granting of concessions to Ecuador, in order that all interested parties may know whether there is occasion for presentation of their views.

HULL

611.2231/114

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 680

QUITO, January 30, 1937.

[Received February 9.]

SIR: With reference to the Department's telegram No. 5 of January 25th, 6 p. m., 1937, directing that I request the Ecuadorean Government to submit as soon as possible descriptions of any products in addition to those it has already brought to our attention, as reported in my despatch No. 632 of December 14, 1936,²⁶ in which it is interested in obtaining tariff reductions or bindings in the contemplated trade agreement, I have the honor to transmit herewith a copy of my Note No. 7 of January 26, 1937,²⁷ which I delivered in person to the Minister for Foreign Affairs. In this connection I venture to refer to my despatch No. 633 of December 15, 1936,²⁸ with which I forwarded a copy with translation of the Foreign Office note of the same date setting forth the products in which Ecuador is interested in obtaining bindings or tariff reductions in the contemplated agreement. It is not thought that the Ecuadorean Government will desire to add further items to that list, but I shall inform the Department definitely as soon as I receive a reply to my note.

In my conversation with the Minister for Foreign Affairs I felt it desirable to explain to him our procedure in negotiating such agreements since the Minister was not familiar with it as he has been devoting practically his entire time to the boundary negotiations²⁹ in Washington. The Department may be interested to learn that the Minister expressed unqualified admiration of this, what he termed, "unique and practical method" of negotiating a trade agreement.

²⁶ *Foreign Relations*, 1936, vol. v, p. 511.

²⁷ Not printed.

²⁸ *Foreign Relations*, 1936, vol. v, p. 512.

²⁹ See pp. 46 ff.

I would add that the Minister had had a conversation in the morning with Dr. Alberto Guerrero Martínez who is proceeding to the United States in connection with the fishing concession in the Galapagos Islands and also to attempt to interest an American company in the Naranja fruit (see my despatch No. 671 of January 19, 1937). The Minister was most enthusiastic about the prospects of this potential industry. I explained to him our general practice to limit concessions to products which a country supplies a principal or important proportion of the total imports of such products into the United States. While the Minister recognized the reasons for this practice, I gathered the impression that Ecuador considers essential a concession on naranja fruit juice. I would reiterate the opinion expressed in the last paragraph of my despatch No. 671 of January 19, 1937, to the effect that a concession on this article will facilitate considerably obtaining concessions from Ecuador on articles in which we may be interested. In this connection I venture to refer to the first paragraph on page three of my despatch No. 633 of December 15, 1936, in which I inquired whether it is feasible to grant reductions on naranja juice without making the concession applicable to all other juices. If such a procedure is possible it would facilitate negotiations appreciably without affecting our bargaining power on fruit juices in negotiations with other countries.

Respectfully yours,

EDWARD J. SPARKS

611.2231/115

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 681

QUITO, February 1, 1937.

[Received February 9.]

SIR: With reference to my despatch No. 680 of January 30, 1937, and in confirmation of my telegram No. 6 of February 1, 6 p. m., 1937,³⁰ relative to the concessions sought by Ecuador in the contemplated trade agreement, I have the honor to enclose herewith a copy with English translation of note No. 9, dated January 29, 1937, from the Minister for Foreign Affairs,^{30a} in reply to my note No. 7 of January 26, 1937^{30a} (enclosure No. 1 to my despatch No. 680 of January 30, 1937).

It will be observed that the formal request for concessions now made is substantially the same as that contained in the Foreign Office note of December 15, 1936, (please see enclosures 1 and 2 of my despatch No. 633 of December 15, 1936³¹). In effect, Ecuador desires that its

³⁰ Latter not printed.

^{30a} Not printed.

³¹ *Foreign Relations*, 1936, vol. v, p. 512.

products now on the free list be bound thereon, and to that end the following itemization is made of the products now on the free list:

Annatto and its extracts;
Cacao;
Coffee;
Cascarilla;
Rubber and its refuse;
Hides and skins;
Kapok;
Bananas in general;
Medicinal plants and herbs;
Mangrove bark (*cáscara de mangle*); and
Balsa wood logs.

A request is also made for the other items appearing in the Free List of the Tariff Law of 1930³² as amended, but it is thought that this additional petition may be disregarded inasmuch as the itemized list appears to be comprehensive.

As concerns the articles on which a 50% reduction in the existing customs is sought, the following items are listed:

Palm leaf hats;
Sawed balsa lumber;
Lentils;
Naranjilla and its juice;
Carbonic gas;
Mineral waters; and
Manufactured and unmanufactured tobacco.

In view of the statement relative to handwoven palm leaf hats made in the second paragraph of page two of the Department's instruction No. 186 of November 11, 1936,³³ no further comment on this item would appear to be necessary.

With regard to the request for a reduction on sawed balsa lumber, I would refer to the second paragraph on page three of my despatch No. 633 of December 15, 1936. It would seem that the internal revenue tax on this product has already been reduced by 50%, from US\$3.00 to US\$1.50 per M feet, under the Trade Agreement with Canada, in view of which no further concession can be made except to bind the US\$1.50 rate.

With respect to the concession desired on lentils, reference is made to the first paragraph on page four of my despatch No. 632 of December 14, 1936,³⁴ in which I reported my observation made to the Director of the Commercial Section of the Foreign Office that the export of

³² 46 Stat. 590, 672.

³³ *Foreign Relations*, 1936, vol. v, p. 504.

³⁴ *Ibid.*, p. 511.

Ecuadorean lentils to the United States is practically in the same class as is naranjilla juice, and that Dr. Banda recognized at that time that a concession on this product would accrue principally to Chilean lentils.

With regard to naranjilla and its juice, I venture to invite the Department's attention to my comments made in my despatch No. 680 of January 30, 1937, and previous despatches, concerning the seeming desirability, if not necessity, of making a concession to Ecuador on this product. It occurs to me that if any concession made on naranjilla juice must be extended to all fruit juices, the Department might desire to give consideration to a contingent concession which would become effective within a specified period after the conclusion of the agreement, or when the exports of this product have reached a certain quantity. I would reiterate my opinion that a concession on naranjilla juice should facilitate appreciably the obtaining of concessions from Ecuador in which we may be interested.

As concerns natural carbonic gas, I have the honor to refer to the second paragraph of page four of my despatch No. 632 of December 14, 1936, in which I reported my conversation with Dr. Banda on this subject. In this connection Ecuador apparently seeks the abrogation of the prohibition of the purchase of foreign products by American Government agencies.

The matter of a concession on Ecuadorean mineral waters is analogous to that desired on naranjilla juice. These waters are undoubtedly of high quality and, with a proper introduction into the American market, might attain a large distribution in the United States. For the moment, however, they are definitely only a potential export. Moreover, since the containers must be imported inasmuch as there is no bottle factory in Ecuador, it is not thought that these mineral waters could compete with those supplied by other countries to the United States.

The inclusion of a request for a reduction of 50% in the existing duties on manufactured and unmanufactured tobacco is the only addition to the list previously prepared by the Ecuadorean Foreign Office (see enclosures Nos. 1 and 2 of my despatch No. 633 of December 15, 1936). This again is only a potential export. It is thought that upon pointing out that the granting of such a concession to Ecuador, since it must necessarily be extended to the principal supplying countries, Greece, Turkey and Italy, would not improve the competitive position of Ecuadorean tobacco in the American market, may be sufficient to convince it that it would gain nothing by insisting on this concession.

Respectfully yours,

EDWARD J. SPARKS

611.2231/99

The Secretary of State to the Chargé in Ecuador (Sparks)

No. 205

WASHINGTON, February 6, 1937.

SIR: I have received your strictly confidential despatch No. 660 of January 8, 1937, reporting a conversation which you had with Dr. Francisco Banda, Chief of the Commercial and Consular Section of the Ecuadoran Foreign Office, on the subject of the contemplated trade agreement between this Government and Ecuador.

As you suggested to Dr. Banda, this Government could not consider his proposal that no publicity be given to the tariff concessions which Ecuador may grant this Government in the agreement.

With regard to Doctor Banda's remarks concerning Ecuador's desire not to extend to other nations the concessions which it may make us in the agreement, the Department regards this as a matter which the Ecuadoran Government itself must decide. If the subject is brought up again, I believe it would be entirely proper for you orally to review this Government's practice of generalizing concessions made in trade agreements. This practice is in accord with the most-favored-nation policy which this Government espouses and to which it adheres in its commercial relations with other countries of the world. It is my understanding that Ecuador seconded the efforts which this Government made in favor of the principle of equality of treatment at the Pan American Conference held in Montevideo in 1933³⁵ and at the Inter-American Peace Conference which recently convened in Buenos Aires.³⁶ It is therefore assumed that in general Ecuador likewise is convinced of the advantages of such a policy. From an immediate and narrow point of view it would sometimes seem to be desirable from the point of view of our trade if concessions made to the United States were withheld from certain other countries, thus giving American products a preferential tariff position. It is the considered opinion of this Government, however, that such apparent advantages are both transitory and illusory, since they cannot compensate for the great damage to our trade as a whole which would result from the abandonment on a larger scale of equality of treatment.

In the light of these circumstances this Government cannot help but hope that Ecuador will see fit to follow an analogous procedure,

³⁵ 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.

³⁶ 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.

even though, as stated before, this is naturally a matter which Ecuador must decide for itself.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.2231/121 : Telegram

The Chargé in Ecuador (Sparks) to the Secretary of State

QUITO, February 18, 1937—6 p. m.
[February 19—7:15 a. m.]

10. Referring to Department's telegram No. 6, February 17, 5 p. m.,⁸⁷ naranjilla is the fruit of the solanum Quito enselam apparently native of Ecuador. It is a solanaceous rather than a citrus product. It is planned to export the juice in concentrated form for use as a non-alcoholic beverage.

Further information may be obtainable from the special report by Crilley to the Department of Commerce in 1935.

SPARKS

611.2231/126b : Telegram

The Secretary of State to the Chargé in Ecuador (Sparks)

WASHINGTON, March 12, 1937—7 p. m.

10. Referring to the Department's telegram No. 5 of January 5 [25], 1937, we are now prepared to release a list of products in regard to which the United States will consider the granting of concessions to Ecuador. The products with their tariff paragraphs are as follows:

for possible duty reductions:

palm leaf hats 1504 (b) (2);
naranjilla juice, probably 806 (a);
bananas, dried, desiccated, or evaporated 752;
pulverized bananas 1558;

for possible bindings on the free list:

annatto 1609;
bananas and plantains 1618;
cinchona bark 1619;
cacao beans and shells 1653;
coffee 1654;
kapok 1684;
reptile skins 1715;
tagua nuts 1778;
sawed balsa wood 1803 (1);
balsa wood in the log 1803 (2);

⁸⁷ Not printed.

Consideration will also be given to the granting to Ecuador in its own right of the reduction in the excise tax on imports of balsa wood not in log form to \$1.50 per thousand feet provided for at present in the Canadian trade agreement.

Please bring this list to the attention of the Ecuadoran Government and endeavor to obtain its acquiescence to the publication of it as a list to which consideration of possible concessions by the United States to Ecuador will be confined, emphasizing again the penultimate sentence of the Department's telegram No. 5. Cable results promptly in order that we may, in the absence of objections, proceed with the publication of this list as described in telegram No. 5.

Please request the Ecuadoran Government to withhold publicity on this subject until date on which it is agreed that formal public announcement and publication of the list will be made here.

The reasons for not including in the above list the other commodities in which Ecuador expressed an interest in obtaining concessions are as follows: In the case of rubber and its refuse, mangrove bark, lentils, mineral waters, and manufactured and unmanufactured tobacco Ecuador is an unimportant or negligible supplier. (With the possible exception of pulverized bananas concerning which our information is not complete, the only items included in the list in the first paragraph above of which Ecuador is not, at least potentially, a principal or an important supplier are items on which concessions have already been granted to other countries.) With respect to wool rugs it has not been found feasible to make a new tariff classification which would result in the chief benefits of a possible concession on this product going to Ecuador. As to carbonic gas no concession can be given for the reason given in the last sentence of your despatch No. 632 of December 14, 1936.³⁸ With regard to "medicinal plants and herbs" it is believed that the principal product of interest covered by such a term, of which Ecuador is an important supplier, is cinchona bark, which has been included in the above list.

You are authorized to indicate discreetly to the Ecuadoran Government the reasons set forth herein for not including the products referred to in the preceding paragraph in the proposed list for publication.

HULL

611.2231/128 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, March 17, 1937—6 p. m.
[Received March 18—2:18 a. m.]

14. Referring to Department's telegram 10, March 10 [12], 7 p. m. The Foreign Office acquiesced in the proposed list for duty reductions.

³⁸ *Foreign Relations*, 1936, vol. v, p. 511.

However it is very concerned over the omission of mangrove bark, rubber, and hides, asserting that it will be incorrectly interpreted by the public as the relinquishment of a privilege now enjoyed. I have emphasized the reasons which make it impossible to accord binding on these products. I have also set forth our policy seeking the liberalization of trade which would make unlikely their removal from the free list. Nevertheless, in order to refute anticipated local criticism the Foreign Office would be pleased to have assurance that the failure to bind these products for Ecuador implies no intention to remove them from the free list.

GONZALEZ

611.2231/128 : Telegram*The Secretary of State to the Minister in Ecuador (Gonzalez)*

WASHINGTON, March 19, 1937—6 p. m.

11. Your telegram No. 14, March 17, 6 p. m. The list in question will be published soon as part of the formal public announcement of opening of negotiations.

You may assure the Foreign Minister³⁹ that the omission of mangrove bark, rubber, and hides from the list of products which it is intended to publish in the near future as the products in respect of which the United States will consider the granting of concessions to Ecuador in no way implies that there is any intention on the part of the United States Government to alter the tariff status of these three products. These products have been omitted solely because Ecuador is a minor source of supply of the imports of such products into the United States. If at some later date any of these products now on the free list should be bound thereon under trade agreements with countries which are the principal sources of supply, Ecuador would, under the most-favored-nation clause, enjoy the benefit of such assurances of continued free entry.

HULL

611.2231/130 : Telegram*The Minister in Ecuador (Gonzalez) to the Secretary of State*

QUITO, March 20, 1937—noon.

[Received 5:43 p. m.]

17. Referring to Department's telegram No. 11, March 19, 6 p. m., the publication of the list should be withheld until I obtain acquiescence on the part thereof relating to bindings which is now being considered by the Department of Finance.

GONZALEZ

³⁹ Carlos Manuel Larrea.

611.2231/130 : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, March 23, 1937—7 p. m.

12. Referring to the Legation's telegram No. 17, March 20, noon. You are requested to inform the Ecuadoran Government that March 29 has been chosen tentatively as the date for publication of the list and that it is hoped that complete clearance may be obtained in time to permit you to advise the Department not later than March 25, in order that this plan may be carried out.

With reference to the Department's telegram No. 10, March 12, 7 p. m., tariff paragraph following palm leaf hats should read 1504 (b) (1) instead of 1504 (b) (2). Please make certain that the Ecuadoran Government understands correctly the scope of the concession on this product which is under consideration.

HULL

611.2231/165A : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, June 14, 1937—5 p. m.

19. With the termination of the public hearings and expiration of the period for submission of briefs in connection with the proposed trade agreement with Ecuador, the Department is now hopeful that it can supply you in the near future with a list of the concessions which this Government would like to obtain in Schedule I together with drafts in English and Spanish of the general provisions which it would like to have inserted in the agreement. It would be helpful if you would report fully by air mail on the present attitude of the Ecuadoran Government toward the agreement, the outlook for prompt and favorable termination of the negotiations and any other related factors which occur to you. You should also indicate whether you believe it will be more advantageous for the negotiations to be held in Quito or in Washington.

HULL

611.2231/168 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, June 15, 1937—11 a. m.

[Received 5 p. m.]

27. Your telegram No. 19, June 14, 5 p. m. The Ecuadorian Government states that it is prepared to negotiate promptly and favorably. If I can present our list and initiate negotiations before the end of this month I believe I can obtain prompt and favorable termination. After that time the attitude of the Government will reflect develop-

ments in the boundary negotiations and the political situation. It would be more advantageous for the negotiations to be held in Quito.

GONZALEZ

611.2231/168 : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, June 24, 1937—2 p. m.

21. With reference to the Legation's telegram No. 27, June 15, 11 a. m. The Department has decided that the negotiations may be held in Quito.

The Department hopes to send you a tentative Schedule I and general provisions in English and Spanish within the next 2 weeks.

HULL

[With instruction No. 244, July 10, to the Minister in Ecuador, the Department enclosed a list of concessions and assurances which the American Government was desirous of obtaining from Ecuador, Schedule I (611.2231/172a). With instruction No. 245, July 16, the Department enclosed copies of the standard general provisions which the American Government proposed for inclusion in the trade agreements which it negotiated (611.2231/173). Schedule I was modified by instruction No. 249, July 28 (611.2231/175)].

611.2231/173a : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, July 17, 1937—2 p. m.

23. Consul General at Guayaquil reports extensive changes in Ecuadoran import tariff effective July 5.

These changes should be considered before you present the list enclosed with the Department's instruction No. 244 of July 10.⁴⁰ Keep the Department informed.

HULL

611.2231/174 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, July 19, 1937—1 p. m.

[Received 5:35 p. m.]

34. Department's telegram No. 23, July 17, 2 p. m. The changes in the tariff rates are for revenue purposes, increasing luxury items and decreasing duties on certain necessities. An examination reveals

⁴⁰ See bracketed note, *supra*.

that the changes affect only a part of the items in Schedule I and are slight as concerns those items. However, the Foreign Office insists that in according consideration to our requests for reductions it will be obliged to do so on the basis of the new rates. On this basis and because of the reductions now made and Ecuadoran commitment it would be possible to obtain rates of 7½ and 25 centavos on flour and lard respectively and lower rate bindings on tires and inner tubes. Naturally on the items increased it will not be feasible to obtain the full reductions contemplated.

I would recommend that we not seek lower rates than 10 and 30 centavos on flour and lard and attempt to trade this difference for increased reductions on other items. I anticipate that Ecuador is not prepared to grant reductions as large as requested on the other items. Please answer by telegraph.

GONZALEZ

611.2231/174 : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, July 21, 1937—3 p. m.

24. Legation's 34, July 19. Telegraph which products in proposed Schedule I are affected and what new rates will be.

HULL

611.2231/183 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, August 1, 1937—4 p. m.

[Received August 1—10:12 a. m.]

42. A decree dated yesterday repeals impounding of the proceeds of exports; provides for the payment of irrevocable credits and guarantee deposits for imports at the old official rate of exchange; requires the payment in dollars of the customs charges on shipments arriving from the United States after 10 days, rate of conversion of the charges to be fixed by the Minister of Finance but the dollars to be obtained in the free market; and authorizes unrestricted importation of specified articles, other articles to be permitted under license.

In view of the collection of customs charges in dollars it would seem desirable to provide for the binding of the same in the contemplated treaty.

The lines [*list?*] of unrestricted imports comprises so-called indispensable articles and only 16 of the 45 items on Schedule I are included. While it was found that liberal treatment will be granted American exports not included therein, it would be well to incorporate assurances on this point in the treaty.

Please answer by telegraph.

GONZALEZ

611.2231/184 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, August 3, 1937—noon.

[Received 5 : 35 p. m.]

43. With reference to my telegram No. 34, July 19, 1 p. m. and subsequent communications relative to the proposed trade agreement with Ecuador, the Minister for Foreign Affairs is desirous of proceeding at once and he has indicated that sympathetic consideration will be accorded our requests. In view of these circumstances and the confused situation which may result after the meeting of the Constitutional Assembly on August 10 it is my opinion that if negotiations could be initiated before the end of this week the outlook for a prompt and favorable termination would be more propitious. Accordingly I am hopeful that the Department may be able to authorize me to present immediately Schedule I with such changes and additions as it may deem necessary. Please answer by telegraph.

GONZALEZ

611.2231/184 : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, August 5, 1937—11 a. m.

29. Legation's 43, August 3, noon. You are authorized to present Schedule I of proposed trade agreement to the Minister for Foreign Affairs after making the following changes therein :

Tariff item No. 13-a ; hog lard ; duty, G. K., Sucre 0.25 ; No. 87, wheat flour ; duty, G. K. 0.075. Tariff items 688 and 703, tubes and tires ; duty, L. K. Sucre 1.40.

Department assumes you have made substitution of tariff items 647, 740 and 1079-n in accordance with instruction No. 249, July 28.^a

HULL

^a Not printed.

611.2231/192

The Minister in Ecuador (Gonzalez) to the Secretary of State

No. 878

QUITO, August 26, 1937.

[Received September 2.]

SIR: With reference to my despatch No. 868 of August 13, 1937,⁴² reporting the substance of my conversation with Doctor Francisco Banda in the matter of the proposed trade agreement, I have the honor to state that I have had three conversations with the Minister for Foreign Affairs on the subject. While these conversations have revealed that the Foreign Minister will do everything in his power to reconcile the conflicting points of view, I seriously doubt that he will be able to convince his Government that acquiescence in an appreciable number of the concessions sought is compatible with existing political and economic conditions. I shall give the substance of these conversations as well as my conclusions.

In my first interview with the Foreign Minister on August 16th, I stated that in my conversation with Doctor Banda I had gathered that Ecuador is prepared to grant in a very limited manner only a few of the concessions and assurances which we seek. In fact, Doctor Banda had stated categorically that local economic conditions did not permit the according of favorable consideration on our requests in excess of those already indicated (See page 6 of my despatch No. 868 of August 13, 1937). I told the Minister that I was unable to reconcile this attitude with his very broad statement on foreign commercial policy made in response to the statement of Secretary Hull of July 16th.⁴³

The Foreign Minister stated that his country is confronted with two serious problems which have not yet been solved, namely, a deficit in its international balance of payments and a deficit in the national budget. He added that their solution is complicated by the recent depreciation in the local currency, as well as by the fact that the Government has always depended upon its customs receipts as the chief source of budgetary revenue and that the people have become accustomed to that practice. He emphasized that the customs policy of Ecuador is primarily for revenue and that the present difficult fiscal situation places his Government in a position where it cannot renounce any of this very secure source of revenue. In fact, it finds itself where it must seek to augment budgetary receipts and that this was the reason for the recent increase in customs duties as well as in internal taxes. He explained that while he and the President are of

⁴² Not printed.

⁴³ For text of statement of July 16, see vol. I, p. 699; for text of Ecuadoran response, see *ibid.*, p. 730.

the opinion that steps must be taken to reduce customs charges, they cannot ignore the fact that while the total budgetary revenues of the country must be increased, the attitude of the people is one of resistance to direct taxation. In view of these circumstances he expressed the hope that the American Government would understand why Ecuador cannot at this time accord to our requests the favorable consideration which it should like to do.

I consider it appropriate at this point to add parenthetically that the Foreign Minister made no mention of the purchases of armaments and of the expenditures for military training and preparedness which, in my opinion, are primarily responsible for the two acute problems now confronting the country. Neither did he refer to the loans obtained from Italy for some of these purchases (see my despatch No. 872 of August 19, 1937 ⁴⁴) which have not yet been taken up in the Budget. It is indisputable that these purchases aggravated an already difficult national and international financial situation, and it is thought that the additional budgetary revenues now required are principally to cover those expenditures. Furthermore, I am inclined to believe that this situation was an important factor in the decision of the Government to cancel the highway contract of the Foundation Company of New York (see my despatch No. 875 of August 19, 1937 ⁴⁴), and it will not be a cause for great surprise if a substantial proportion of the taxes earmarked and now accumulating for the construction of highways is diverted from that purpose and used to cover the budgetary deficit caused by military expenditures. Verily, the state of fiscal finances is both delicate and difficult, and the renouncement of any existing revenues would probably serve to aggravate rather than to remedy the situation.

I pointed out to the Minister that several of our requests involve only the binding of the present rates of existing duty on certain items, but that Doctor Banda had stated that favorable consideration could not be accorded these requests inasmuch as the conclusion had been reached from experience in the operation of the Chilean Agreement that such a commitment is not advantageous. The Minister confirmed this statement and added that the Commercial Treaty with Chile is highly inexpedient because of the clause binding the rates of duties on various articles. He said that considerable study had been given this particular phase of the treaty and that a decision had been taken to denounce it and that it will expire in December of this year.

I then explained that we are seeking, in so far as may be compatible with the situation existing in each country, to remove

⁴⁴ Not printed.

unnatural barriers to trade, to reduce especially high duties and to stabilize normal duties. I added that the reason advanced by Doctor Banda for the inability of his Government to accord favorable consideration to binding normal duties was the recent depreciation of the local currency and the necessity of having a free hand to adjust the duties to the new exchange levels. I recognized that this explanation seemed to cover specific duties but that I failed to see the application as concerns *ad valorem* duties inasmuch as these latter are effectively a percentage of the gold value of imported merchandise. Under the circumstances, the binding of *ad valorem* duties could in no way affect unfavorably the Government's revenues in local currency except to increase the amount thereof in proportion to any depreciation which may occur. The Minister admitted this argument and stated that he would discuss the point with the Minister of Finance.

With regard to specific duties I recognized that the Government of Ecuador may desire to adopt a policy which would assure it of definite revenues in foreign as well as local currency. In view thereof I intimated that the Minister for Foreign Affairs might desire to make some proposal for the stabilization of these rates which he agreed to do.

I then referred to the statement of Doctor Banda with respect to the reductions on hog lard and wheat flour in which he had indicated that the Minister of Finance would not consent to a reduction greater than 50% of the old tariff rates. I explained that upon learning of the tariff changes of July 5, 1937, I had inquired of Doctor Banda what effect these would have on our requests for concessions, and that he had stated that we must accept the new tariff as the basis for negotiation. I added that I had remarked at the time to Doctor Banda that the application of this principle would entitle us to a reduction of 50% of the new reduced rates on wheat flour and hog lard which he had admitted. The Foreign Minister immediately said that he considered this position unreasonable and that it is the existing rates which must be taken into consideration. He assured me that he would discuss this point with the Minister of Finance and endeavor to have him accept the principle of 50% of the present tariff rates.

In my second interview with the Minister for Foreign Affairs on August 24th, he read a memorandum prepared by Doctor Banda on the points raised by me in our previous interview which simply restated the observations reported in my despatch No. 868 of August 13, 1937. The only new point brought forth was with regard to the general provisions, the memorandum indicating the necessity of the inclusion of a provision similar to Article X in the Treaty of

Commerce and Navigation between Ecuador and Holland ⁴⁵ (see my despatch No. 807 of June 18, 1937 ⁴⁶). I told the Minister that I did not consider it feasible to include such a provision in the proposed agreement for the reason that it must be interpreted as a qualification and restriction of the broad scope of the unconditional most-favored-nation clause upon which it had previously been agreed to predicate the negotiation of the agreement. Accordingly, I agreed to prepare a memorandum on this point which I would deliver to him on the following day.

Yesterday I had a further conversation with the Foreign Minister and I presented to him the memorandum on the unconditional most-favored-nation clause, a copy of which I enclose herewith.⁴⁶ The reaction of the Minister was surprising to me notwithstanding it reflected the peculiar interpretation which Ecuador has always endeavored to give to the unconditional most-favored-nation clause. In effect, he indicated that the clause in question is applicable only in cases where reciprocal advantages might be received by Ecuador, such as in its trade relations with France, Germany and the United States, but that advantages could not be extended to other countries whose trade balances might be unfavorable to Ecuador. I emphasized that the inclusion of the proposed provision concerning the balance of trade must be construed as a restriction of the unconditional clause, thus converting it into the conditional rather than the unconditional most-favored-nation principle. I believe that I was successful in making the Minister see that should such a clause be included in the proposed trade agreement and should our commerce at any time show a visible balance of trade unfavorable to Ecuador, it would be incumbent upon his Government to withhold from the United States the advantages of the Preferential Tariff. I added that he must realize that in such an event we would be obliged to view such action as a discrimination since we could not ignore the fact that there was being accorded to a third country a treatment more favorable than that granted to the United States. The Minister agreed to discuss this situation further with the President and the Finance Minister.

During the discussion of this particular point the Minister remarked that according to preliminary customs statistics for the first part of the present year, the visible balance of American-Ecuadorean trade appeared unfavorable to the latter country. I took advantage of this statement to point out that under the circumstances the inclusion

⁴⁵ Signed May 27, 1937, League of Nations Treaty Series, vol. cxciv, p. 179.

⁴⁶ Not printed.

of the proposed clause would no longer be a simple acquiescence upon our part to a principle of Ecuadorean commercial policy with no possible adverse consequences, but would become an immediate threat to our trade and an effective discrimination in the treatment thereof upon importation into Ecuador. The Minister then outlined briefly the objective sought by Ecuador in the application of the Preferential Tariff and the attempt thereby to balance its trade with foreign countries. In other words, his statement simply confirmed that Ecuador adheres to the principle of the bilateral balancing of foreign trade. He referred in particular to Ecuadorean-German trade relations and called my attention to the increased purchases by the latter country. This gave me the opportunity to observe that Ecuadorean foreign commercial policy, in my opinion, would seem to be contributing effectively to the dislocation of foreign trade from its natural channels. I felt it incumbent upon me to point out informally that while the bilateral balancing of trade may have some useful results in a country having surplus exports which it is unable to dispose of in the world markets, this situation does not appear to exist in Ecuador inasmuch as, according to my information, Ecuador in latter years has disposed without difficulty of its entire export production. Therefore, the situation created by this dislocation will be that American importers will be unable to purchase in this country the products which they ordinarily require, not because of any indisposition upon their part but simply because of the inexistence of such products. I remarked that under these circumstances it would seem to me that Ecuador would achieve more if its policy were directed to augmenting the production of exportable products rather than to deliberately diverting them from the natural channels of its trade. This point of view would not seem to have been previously brought to the attention of the Minister. He was apparently much impressed and agreed to discuss these views with his colleague the Minister of Finance.

I felt that in my previous conversations the authorities had not comprehended fully the concessions and assurances we are seeking with respect to the items included in Schedule I. In fact, the Foreign Minister on August 24th indicated his impression that we desired these items included in the Preferential Tariff which would be in accord with the present foreign commercial policy of Ecuador. While I felt that I had made it clear that we desire the rates in Schedule I established as net rates independent of the existence of any other factor, I decided that it was indispensable to furnish him a memorandum in this respect, a copy of which I enclose herewith for the information of the Department.⁴⁸

⁴⁸ Not printed.

After reading over the memorandum carefully the Minister appeared to understand precisely what we seek. Nevertheless, he remarked that it was his understanding that we are not interested in the Preferential Tariff and that we would be willing to surrender the advantages thereof. I immediately corrected this impression to the effect that while we have little interest in the Preferential Tariff as a whole, there are possibly several items contained therein, in addition to those already listed in Schedule I, which may be of interest to our export trade. I added, however, that aside from this fact I was unable to see how we could relinquish whatever advantages might accrue to us through the enjoyment of that Tariff, or the right to enjoy that Tariff regardless of whether or not the items listed therein are of interest to us, because of our adherence to the principle of the unconditional most-favored-nation treatment.

Our position with respect to the Preferential Tariff and our rights under the unconditional most-favored-nation clause would appear to be so clear that no further argument or discussion would seem necessary. Nevertheless, I am obliged to admit that I find a definite reluctance upon the part of the Ecuadorean authorities to admit this position. I can only explain this situation as being due to the conflict in the two commercial policies, and that Ecuador reserves the granting of the Preferential Tariff and the inclusion of new items therein as a bargaining power to obtain advantages from other countries.

The Minister for Foreign Affairs informed me that in a brief conversation with the President he had touched upon the subject of the proposed trade agreement. He added that the President had indicated to him that he must be extremely reluctant to grant any major reductions in customs rates for the reason that Ecuador cannot now afford to relinquish an appreciable part of its customs revenue—in fact, it should seek an increase in these revenues in order to cover the deficit in its Budget.

Another point emphasized by the Minister for Foreign Affairs concerns the extension to third countries of the advantages which might be conceded to the United States. During the course of my three conversations he repeatedly referred to that point and indicated the indisposition to grant us concessions because of the necessity immediately to extend them to Germany, Italy, Chile and France. I again outlined to him our general policy under the most-favored-nation clause to generalize all advantages that we grant. I added that while we hoped that Ecuador might see its way clear to follow this same practice, it is a matter which must, of course be decided by Ecuador. While the Minister understood the point made I feel that it will be extremely difficult to obtain concessions on items of which the countries mentioned are important suppliers. One commodity in

particular is tariff item No. 372-c, Medicinal and Pharmaceutical Preparations. According to the statistics compiled by the Department for the year 1935 Germany supplied 34%, France 24% and the United States 32%. The Minister indicated that Germany's participation in 1936 and particularly during the current year had increased appreciably. Therefore, he desires to retain the present rate of duty for subsequent negotiations with Germany.

Before making any recommendation as to procedure, it would seem desirable to review briefly the different factors in the present situation:

1. Ecuador is faced with two serious problems, first, a deficit in its international balance of payments and second, a deficit in its Budget. The first problem may be solved by an increase in the world price of its exports, by an increase in production, or possibly by a restriction in imports. The possibility of an appreciable and immediate increase in world prices would seem to be purely conjecture for the moment. An effort is being made to increase production, but this is subject to climatic conditions and other incontrolable factors. In the absence of the first two solutions Ecuador has apparently decided upon the restriction of imports (see my despatch No. 856 of August 2, 1937⁴⁹).

The deficit in the Budget is possibly a more urgent and serious problem since the depreciation of the currency aggravates the situation by increasing the local currency value of the already excessive purchases made abroad. A measure has been taken to stabilize this situation by the conversion of customs charges into United States currency at the rate of twelve sucres to the dollar and by the payment thereof in United States currency. This measure results in an increase of approximately 13% in the local currency revenue, but at the same time it causes a loss of approximately the same percentage in the foreign currency revenue of the Government. This latter is important in view of the payments which the Government must make abroad for armaments purchased. These circumstances, and particularly that the Budget does not cover all armament purchases made or contracted abroad, create a situation where the Government cannot afford to abandon its present revenues.

2. The conflict between American and Ecuadorean foreign commercial policy is now apparent. Ecuador, in attempting to enforce the theory of bilateral balancing of trade, would insist upon the inclusion of a provision stipulating that the visible balance of trade must be favorable to it, upon the failure of which we should be denied the advantages of the Preferential Tariff. While the latter may interest American export trade only slightly, it is thought that the provision would be a specific restriction and qualification of the

⁴⁹ Not printed.

unconditional most-favored-nation clause and, therefore, unacceptable.

3. Ecuador insists that it is unable to bind or reduce rates of duty because of the depreciation of the local currency. While this reason is apparently reasonable, I fear that the underlying cause is the necessity for budgetary revenue outlined in the second paragraph of No. 1 above. I consider that it might be possible to convince the authorities of the feasibility of binding the present ad valorem import duties. Also, it may be possible to work out an arrangement for the stabilization of specific duties by their conversion at a specified rate into United States currency and their payment in that money. For example, it might be possible to take advantage of the system which has been recently established by the Government providing for the conversion of customs charges into United States currency at the rate of twelve sucres to the dollar and the payment thereof in dollars. It will be necessary, of course, to include some provision to the effect that this system must obtain for all import duties.

Recommendations.

The international financial and the fiscal situations, and the consequent attitude of the Ecuadorean Government, would seem to make the present moment inauspicious for the negotiation of the proposed trade agreement. However, I feel that we should anticipate the arising of a difficult situation as a result of the large purchases by Germany which will undoubtedly reduce Ecuadorean exports to the United States, possibly to a point where the visible balance of trade may be unfavorable to this country. In view of this circumstance I would recommend that we proceed with the negotiations in an attempt to have the Ecuadorean Government withdraw from its present position in the matter of the Preferential Tariff and the penalty for the failure to show a balance of trade favorable to this country. It might be desirable to include some provision on this point in the Agreement in view of the question having again arisen when it was apparently settled when our *modus vivendi* was negotiated. I feel that I may be able to obtain bindings on ad valorem duties and possibly on specific duties if an arrangement for their stabilization can be worked out. I also believe that it may be possible to obtain the 50% reduction on the existing duties on hog lard and wheat flour. However, on this point I must reiterate that it would be unwise to accept this additional advantage and I strongly recommend that I be authorized to forego the extra reduction in the duties on these two products. I am certain that such an authorization would be welcomed by the Ecuadorean Government and would permit me to obtain concessions or assurances on other items which would not be so open to local criticism.

The Minister for Foreign Affairs proposes to discuss the whole question with the President and the Minister of Finance within the next day or two, after which he will afford me an opportunity of going over the situation with the President and Finance Minister. I shall promptly report by telegraph the results of this conference.

Respectfully yours,

ANTONIO C. GONZALEZ

611.2231/192 : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, September 9, 1937—6 p. m.

38. Referring to your despatch No. 878 of August 26, you are authorized in case of necessity to agree to the rates which we originally requested on hog lard and wheat flour, namely, 30 and 10 centavos per gross kilo respectively.

The Department is studying the question of converting specific duties into dollars for the purpose of persuading Ecuador to consent to bind certain rates and will instruct you in this regard in the near future.

HULL

611.2231/192a : Telegram

The Acting Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, September 20, 1937—2 p. m.

40. In several of your recent despatches reporting conversations on the trade agreement you have indicated that Ecuador will not consent to bind any tariff rates unless they are specified in dollars. Presumably this would also apply to items on which reductions are requested. The trade agreements program envisages the reduction of tariff and other barriers to international trade and the stabilization of the conditions under which such trade is carried on. Since to specify bound or reduced rates in dollars would be to permit them to fluctuate in sucres, which would not appear to furnish the stability sought, the Department is reluctant to accede to the proposal. If this proposal is made by the Minister of Finance because of revenue considerations, it may be pointed out that barring a substantial devaluation of the sucre, the expenditures of the Government of Ecuador (which are principally in local currency) will not increase or decrease with each change in the exchange value of the sucre. In this connection it would be helpful to have your opinion as to the probability of a further decline in the exchange value of the sucre.

You are requested to discuss this matter again with the appropriate Ecuadoran officials along the lines indicated above with a view to ascertaining how insistent they are on the collection of duties on

schedule articles in terms of the dollar and the reasons therefor. You should find out their position in this regard with respect to reductions and bindings of both specific and ad valorem rates in the schedule.

Report fully by telegraph the outcome of your conversations together with your comments thereon. In this connection indicate also what prospect you believe there is for a fairly speedy and successful termination of the negotiations. With a heavy program scheduled for the coming months the Department is anxious to have this agreement out of the way as soon as possible.

MOORE

611.2231/194 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

Quito, September 25, 1937—11 a. m.
[Received September 26—6:50 a. m.]

54. Referring to Department's telegram number 40, September 20, 2 p. m., the Minister for Foreign Affairs insists upon the inclusion of the clause which would make the concession of the preferential tariff conditional upon our trade showing a balance favorable to Ecuador. I again pointed out that this position would seem unacceptable since it could be construed only as a qualification of the unconditional most-favored-nation principle whereupon the Foreign Minister admitted that the commercial policy of his Government is based on the conditional principle. I recalled that the Ecuadorian Government adhered to the principle of equality of treatment in the Montevideo and the Buenos Aires Conferences and, moreover, that it agreed formally that the proposed agreement would be predicated on the unconditional most-favored-nation principle. The Minister for Foreign Affairs replied that the whole Ecuadorian commercial treaty structure is based upon the conditional trade clause and that an exception in favor of the United States cannot be made. He added that his Government is determined upon this policy and that if necessary it will publicly renounce its adherence to the unconditional principle.

Preliminary statistics indicate that the diversion of Ecuadorian exports has been so great that the trade balance with the United States this year may be passive. The reluctance to include the value of cyanide precipitates notwithstanding the pertinent law refers to the visible balance of trade and not of payments, may make that balance even more passive. Should this situation arise we would be faced with the threat of classification in the second or third categories mentioned in my despatch number 503, August 26, 1936,⁵⁰ with the consequent penalties and discriminations.

⁵⁰ Not printed.

The Minister for Foreign Affairs offered to make bindings of ad valorem and specific duties in dollar equivalents and a few additional reductions. While he believed the schedule rates could be maintained he said that his Government must reserve the right, so that it could have a free hand, to increase the whole tariff proportionately if found necessary for revenue purposes.

The commitments of the Government in foreign currency demand stabilization of customs charges in dollar equivalents. I am informed that even these revenues are insufficient and that additional amounts must be purchased in the open market. The outlook for next year is obscure and failing a halt in armament purchases financial conditions may be expected to become increasingly critical.

In view of the foregoing I am of the opinion that the negotiations should be suspended until a more propitious moment.

GONZALEZ

611.2231/195 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, September 27, 1937—1 p. m.

[Received 6 p. m.]

55. Referring to my telegram No. 54, September 25, 11 a. m., the last paragraph of the memorandum received from the Foreign Office this morning reads as follows:

"However, it must be left on record that in order that Ecuador should continue these unique concessions which until now it has made to no other country, it is agreed that the commercial balance shall be favorable to Ecuador inasmuch as this principle is of vital importance to the economy of the country; since it is the only way that it can cover payments in gold for ocean freight and insurance as well as the merchandise we import which principle has been incorporated in the commercial treaties already concluded by Ecuador and which has been accepted by the other countries."

GONZALEZ

611.2231/199

The Minister in Ecuador (Gonzalez) to the Secretary of State

No. 911

QUITO, September 27, 1937.

[Received October 7.]

SIR: With reference to my despatch No. 909 of September 25, 1937,⁵¹ reporting my conversation with the Minister for Foreign Affairs in the matter of the proposed trade agreement, I have the honor to transmit herewith a Memorandum with English translation

⁵¹ Not printed.

received this morning which sets forth the concessions which Ecuador is prepared to make.

With regard to the percentage reductions, those in tariff items Nos. 684-a, -b, -c, -d and -e, the percentage reductions are slightly higher than those indicated since for example in No. 684-a the duty would actually be reduced from 45% to 35% (see page 3 of my despatch under reference).

With regard to the last paragraph of the Memorandum I deemed it desirable that the Department have the exact text of the reasons for Ecuador's insistence upon the inclusion of the trade balance clause, in view of which I incorporated it in my telegram No. 55 of September 27, 1 p. m., 1937. What the Foreign Office desires to express is that the visible balance of trade must show an active balance for Ecuador in order to cover the appreciable invisible items of ocean freight, insurance, capital remittances, and the appreciable proportion of the value of petroleum and cyanide precipitates shipments which appear in export statistics but which do not return to the country. In order to achieve that favorable visible balance Ecuador has committed itself to the exigency that all countries must show a passive balance in their trade with Ecuador in order to obtain and continue to enjoy the maximum concessions and benefits granted under the Preferential Tariff and other trade arrangements.

Respectfully yours,

ANTONIO C. GONZALEZ

[Enclosure—Translation]

The Ecuadoran Ministry for Foreign Affairs to the American Legation

1.—The binding (*estabilización*) of certain customs items may be agreed, provided that they are based on the Present Tariff, that is, including the amendments made on June 30, 1937 (*Registro Oficial* No. 531, July 5, 1937);

2.—A reduction is granted in item No. 274 (prepared paints, in liquid, etc.) from 70 centavos to 60 centavos per gross kilogram;

3.—In item No. 362 (c) (pharmaceutical preparations and specialties), the duties are reduced from 1.50 sucres to 1.20 sucres per legal kilogram;

4.—In item No. 684:

- | | |
|-----|--|
| (a) | (Automobiles), reduced from 45% ad valorem to 35% ad valorem |
| (b) | " " 60% " " to 45% ad valorem |
| (c) | " " 100% " " to 85% ad valorem |
| (e) | " " 35% " " to 25% ad valorem |

Summarizing the preceding concessions, Ecuador would grant to the United States the following reductions:

<i>Ecuadorean Tariff Item Number</i>		<i>Percentage of Reduction</i>
13-a	Hog Lard.....	50%
87	Pure wheat flour.....	50%
153	Lubricating oils for machinery and vehicles in general.....	30%
274	All prepared liquid paints, etc., (actually pay 70 centavos, the United States would pay 60 centavos).....	
290	Paste, powder, or any other preparation for dental hygiene.....	30%
372-c	Pharmaceutical preparations and specialties... (actually pay 1.50 sucres, the United States would pay 1.20 sucres).....	
525	Machetes, hoes, pickaxes, shovels, etc.....	30%
676	Electric batteries in general.....	30%
684-a	Automobiles up to 600 dollars.....	10%
684-b	“ from 601 to 900 dollars.....	15%
684-c	“ from 901 dollars and above....	15%
684-d	Omnibusses and similar vehicles.....	5%
684-e	Parts, loose pieces and replacement parts for Automobiles, omnibusses and trucks, etc... 10%	

The United States will also enjoy the 30% of the Preferential Tariff from the following products:

31.....	Sardines in any form;
32.....	Edible oils in general;
222-a.....	Table glassware which has a thickness of 1.20 millimeters or more in its thinnest part;
647.....	Sewing machines, with or without cover;
688.....	Inner tubes for tires of vehicles;
703.....	Tires or covers for automobile wheels, solid, hollow, etc;
837.....	Writing paper;
889.....	Oilcloth with a base of cotton or other vegetable fibers;
1076-b.....	Stockings and socks for men and women;
1144.....	Disks, etc., for phonographs and talking machines;
1148.....	Phonographs in general, talking machines and apparatuses.

However, it must be left on record that in order that Ecuador should continue these unique concessions which until now it has made to no other country, it is agreed that the commercial balance shall be favorable to Ecuador inasmuch as this principle is of vital importance to the economy of the country; since it is the only way that it can cover

payments in gold for ocean freight and insurance as well as the merchandise we import and which we export, which principle has been incorporated in the commercial treaties already concluded by Ecuador and which has been accepted by the other countries.

611.2231/194 : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, October 6, 1937—7 p. m.

42. The Department has learned with regret of the developments reported in your telegram No. 54, September 25, 11 a. m. Before considering the undesirable step of suspending negotiations, the Department believes the situation should be thoroughly and frankly discussed with the Ecuadoran Government. Accordingly, I am arranging to call in the Ecuadoran Ambassador with whom I shall go over the facts in the hope that he may use his influence to have the Foreign Minister recede sufficiently from the position he has taken to allow negotiations to continue.

I suggest, if you perceive no objection, that you also see the Foreign Minister again, pointing out, *inter alia*, that

(1) At Ecuador's behest and on the strength of that country's formal agreement to negotiate on the unconditional most-favored-nation principle, this Government has devoted considerable time and personnel in an effort to work out an agreement with Ecuador at a time when other countries have been pressing for trade agreements.

(2) This Government had been encouraged to believe both by Ecuador's interest in having a trade agreement with the United States and the record of its participation in the conferences at Montevideo and Buenos Aires where liberal trade policies were endorsed by the American Republics that Ecuador was prepared to translate them into reality and thus assist in the difficult but urgently needed task of freeing world trade of the mass of artificial barriers which are choking its growth and thus slowing down economic recovery and engendering international ill feeling. The effective cooperation of the Republics of America toward these goals has never been more needed than at this present disturbed moment in world relations.

(3) This Government believes that were Ecuador to join with the increasing number of countries which are actively participating in the movement to liberalize trade, such action would be of general benefit to international trade relations as well as of cumulative advantage to Ecuadoran economy. The Government of the United States hopes therefore to have Ecuador's continuing cooperation in order that present negotiations may be brought to a successful conclusion in the near future.^{51a}

HULL

^{51a} A memorandum consisting of the above three paragraphs was handed to the Ecuadoran Ambassador on October 8.

611.2231/201: Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, October 8, 1937—4 p. m.

[Received 8:28 p. m.]

57. Referring to Department's telegram No. 42, October 6, 7 p. m. I again discussed the matter exhaustively this morning with the Minister for Foreign Affairs in an effort to persuade him to recede from the position taken. He reiterated previous arguments and stated categorically that his Government is not prepared to abandon the conditional trade balance clause. While I have obtained his agreement to reconsider the whole question in the light of the points made in the Department's telegram and of other practical considerations I am not hopeful that he will recede sufficiently to allow the negotiations to continue.

GONZALEZ

611.2231/208

Memorandum by the Under Secretary of State (Welles)

[WASHINGTON,] October 8, 1937.

The Ambassador of Ecuador called this afternoon at my request, and I handed him the memorandum⁵² which had been prepared for him with regard to the trade agreement negotiations between Ecuador and the United States.

The Ambassador read the memorandum carefully in my presence and then stated that he was entirely surprised and completely at a loss since he had not received a single word from his Government regarding any change of attitude on the part of the Government of Ecuador. He reminded me that he received personal letters from the President of Ecuador at least twice a week in addition to his official communications from his Foreign Office and said that in none of these communications had any indication been received of any change of attitude on the part of Ecuador. He asked if I didn't think that Mr. Gonzalez might have misapprehended representations which had been made to him. I replied that Mr. Gonzalez' statements seemed to be so full and so definite that I could hardly apprehend that any misunderstanding had occurred. I told the Ambassador that this whole situation gave us a great deal of disquiet and disappointment.

I said there were two points which I would like for him particularly to consider: First, that both Governments had obviously reached the conclusion after much consideration that a trade agreement be-

⁵² See footnote 51a, p. 511.

tween the two countries would be a very positive advantage to the commercial interests of both nations; second, that in view of Ecuador's unreserved support of the resolutions for a liberal trade policy on the part of the American republics presented by the United States and adopted unanimously by all of the American republics at Buenos Aires, it seemed inconceivable that Ecuador should now insist upon taking a position which was completely at variance with all of the principles inherent in those resolutions and that in addition thereto, such an attitude on the part of Ecuador at a time when the United States was doing everything within its power to further those liberal trade principles in international relations which it believed essential for world rehabilitation, would necessarily and inevitably be regarded as a discouragement and as a set-back by all of the many nations who are now working with us towards those ends.

The Ambassador said he would at once transmit our memorandum by air mail to his Foreign Minister and that he would likewise immediately transmit an air mail letter to the President of Ecuador asking for full information and urging his Government to consider favorably the point of view expressed in the memorandum I had handed him. He told me that he would advise me as soon as he received some response.

S[UMNER] W[ELLES]

611.2231/207

The Minister in Ecuador (Gonzalez) to the Secretary of State

No. 919

QUITO, October 9, 1937.

[Received October 18.]

SIR: With reference to the Department's telegram No. 42 of October 6th, 7 p. m., 1937, and in confirmation of my telegram No. 57 of October 8th, 4 p. m., 1937, I have the honor to report that I interviewed the Minister for Foreign Affairs yesterday morning during which we discussed the situation which has arisen because of his insistence upon the inclusion of the Ecuadorean trade balance clause in the proposed trade agreement. I anticipated no success in persuading him to recede sufficiently from the position taken in view of his previous categorical statements on the subject and his assertion that the President and the Minister of Finance share the same views. Notwithstanding, I thought it desirable to go over the whole question again in the hope that he might reconsider his position.

I told the Foreign Minister that my Government had learned with keen regret of the incident which had developed in the negotiations, and that it was not disposed to take the step of considering the suspension of the negotiations pending a frank and thorough

discussion of the conflict which had developed. I then permitted him to read a memorandum in which I had incorporated the three points made in the Department's telegram under reference.

The Minister immediately replied that the situation has not changed and that he must state categorically that his Government is not in a position to abandon the conditional trade balance clause. He then proceeded to cite arguments previously presented and he emphasized, in particular, that the abandonment of this clause would imply the abrogation of the several Commercial Treaties recently or about to be concluded by Ecuador with foreign countries. He stated that the primary purpose of the clause and the policy based thereon, is to stimulate foreign markets for Ecuadorean products, and that the policy has had signal success in support of which he referred to the increase in exports to Germany, France and Japan. He also stated that the policy has been a means of increasing the price of many Ecuadorean products, especially vegetable ivory which is now being purchased in large quantities by Japan. He said that in previous years the price had been so low that Ecuadoreans were little disposed to collect the nut, but now with the increased demand and the easy placing of this product in foreign markets, the price has improved and there has been a consequent increase in exportation. The Minister also stated that the abandonment of the trade balance clause would involve a complete disregard of the pertinent law. I ventured to point out that it is my understanding that the clause is not the subject of a law but of an Executive Decree, in view of which an amendment or change would seem to require action only by the Executive Department.

At this point I called to his attention the statistics on export trade for the first seven months of this year (see my despatch No. 916, October 4, 1937 ⁵³), and explained that exports to Japan, France and Germany appear to have increased about 21,000,000 sucres, but that this increase has been made at the expense of exports to the United States inasmuch as a corresponding decrease seems to have occurred in their value. Under these circumstances the consequences of the policy seem to be a direct dislocation of the exports from their natural channels. The Minister for Foreign Affairs immediately replied that this dislocation of trade is due to the policy but also to the fact that the price paid for the articles is higher in those countries than in the American market which accounts for their being diverted to those markets. I would add parenthetically that I learned this morning that this question was bitterly debated in Quito a few days ago at a bankers conference on the internal credit situation. One banker pointed out forcibly that the Central Bank of Ecuador now has in its

⁵³ Not printed.

portfolio credits of 14,000,000 sucres of askimarks, and he charged the Board of the Central Bank as being directly responsible for the present stringent credit situation. He added that the higher prices paid by Germany is a myth since they are entirely dependent on the quotation of the askimark in sucres which he considers excessively high. He further said that the present accumulation of credits in Germany might be better described as the poor country of Ecuador's having made a loan to Germany in that amount.

The Minister then proceeded to state that Ecuador is a small country and that it cannot afford to make any innovations in the restrictive systems practiced by the larger countries. I immediately pointed out that we had already concluded trade agreements on the unconditional principle with Costa Rica,⁵⁴ Honduras⁵⁵ and Nicaragua,⁵⁶ and that the position of those countries appeared to be in a great number of respects analogous to that of Ecuador. The Minister immediately changed his tactics and replied that Ecuador could not afford to make any sacrifices.

The Minister then referred to financial conditions within the country and stated that his Government could not afford to reduce substantially its customs revenues. I stated that while my Government is seeking to stabilize customs charges and to reduce excessive rates, it would be disposed to view the situation sympathetically and not demand more than Ecuador is in a position to grant.

I then asked the Foreign Minister whether he would be disposed to reconsider his position in the light of the points made in the Department's telegram under reference. I added that it would seem desirable in doing so to determine whether the consequence of a change in the principles of Ecuadorean commercial policy would be as detrimental economically to the country as he seemed to think. In this connection I ventured to express the opinion that Ecuador's adoption of the unconditional most-favored-nation principle would be an important contribution to the improvement of world trade which, according to my knowledge of local economic conditions, could be made without any sacrifice to national economy. I also reminded him that the Constituent Assembly has designated a special committee to formulate a complete plan for the financial and economic reorganization of the country and that he might desire to obtain their views. The Chairman of this Committee has broad views and I intend to discuss with him the principles and reasons of our trade policy which

⁵⁴ Signed November 28, 1936, Department of State Executive Agreement Series No. 102, or 50 Stat. 1582; see also *Foreign Relations*, 1936, vol. v, pp. 373 ff.

⁵⁵ Signed December 18, 1935, Executive Agreement Series No. 86, or 49 Stat. 3851; see also *Foreign Relations*, 1935, vol. iv, pp. 729 ff.

⁵⁶ Signed March 11, 1936, Executive Agreement Series No. 95, or 50 Stat. 1413; see also *Foreign Relations*, 1936, vol. v, pp. 782 ff.

may be helpful. The Foreign Minister agreed to reexamine the whole matter and to consult again with the President of Ecuador and the Minister of Finance. Inasmuch as today through the 12th are local holidays I do not believe that a decision in the matter will be taken before the end of next week at the earliest.

Respectfully yours,

ANTONIO C. GONZALEZ

611.2231/201 : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, October 13, 1937—8 p. m.

46. Referring to your telegram no. 57, October 8, 4 p. m. The Under Secretary discussed on October 8 the trade agreement situation with the Ecuadoran Ambassador in Washington who stated that he would communicate at once with the Foreign Minister and the President urging them to consider favorably this Government's point of view in the matter.

The Department hopes that the Foreign Minister's promise made to you to reconsider the question combined with Ambassador Alfaro's recommendations will result in the situation taking a more favorable turn. You are, of course, correct in your belief that this Government could not consider any such limitation of the most-favored-nation principle as the Ecuadoran Government has proposed.

HULL

611.2231/212 : Telegram

The Minister in Ecuador (Gonzalez) to the Secretary of State

QUITO, October 21, 1937—5 p. m.

[Received October 22—1:10 a. m.]

60. Referring to my telegram No. 57, October 8, 4 p. m. I have just received a long memorandum from the Minister for Foreign Affairs stating that the application of the Montevideo and Buenos Aires declarations on commercial policy was contingent upon the local economic situations permitting the same; that the declarations have not been ratified by the Government of Ecuador precisely because the economic situation obliged the adoption of a policy which would permit the payment of the appreciable invisible imports, that the Government of Ecuador is determined to make any sacrifice to encourage and strengthen commercial relations with the United States but that no exception can be made with regard to the trade balance clause since this would involve a complete change of policy; that the conclusion last year of the visa waiver agreement is proof of this special

deference to the United States since it is more favorable to the United States because of the greater number [of] Americans travelling; that Ecuador practices most-favored-nation treatment with all countries whose balance of trade is favorable to it; that the preferential treatment granted by the United States to Cuba shows that exception must be made at times to the unconditional principle; that the unconditional principle is not applied by many American countries including Cuba which maintains three tariffs applying the maximum to Ecuador to which no objection has been made because it is felt that the policy is in conformity with Cuba's economic interests; that in view of the foregoing the Government of Ecuador is confident that the United States will consider sympathetically the special conditions which obliged Ecuador to adopt its commercial policy and will take into account that the trade balance between the two countries will continue to be favorable to Ecuador and therefore will accept the principle which is of capital importance for the economy of the country. No reference is made to the formal commitment of last December.

GONZALEZ

611.2231/215

The Minister in Ecuador (Gonzalez) to the Secretary of State

No. 957

QUITO, November 10, 1937.

[Received November 18.]

SIR: With reference to my despatch No. 929 of October 21, 1937,⁵⁷ and previous correspondence, regarding the insistence of the Ecuadorean Government upon the trade balance clause in the proposed Trade Agreement, I have the honor to inform the Department that during a social visit I paid yesterday evening on the Chief Executive and his wife, the subject of trade came up, and General Enríquez declared that he regretted that the United States and Ecuador could not reach an agreement, since Ecuador was so poor and entirely dependent on its customs receipts that it was unable to make the necessary concessions. The Dictator went on to say that the most-favored-nation clause was so different from Ecuador's policy that should Ecuador adopt it now, it would have to change all its treaties concluded with other countries. In reply, I pointed out the benefits of the most-favored-nation policy and called the General's attention to the large number of countries with which the United States had already concluded agreements on this basis, which were proving mutually advantageous to the parties thereto. General Enríquez asserted that he would discuss the matter again with his Minister for Foreign Affairs.

⁵⁷ Not printed.

Inasmuch as the Chief Executive does not seem inclined to change, on his own initiative, the policy of his predecessor in this respect, and as Sr. C. M. Larrea, the same Foreign Minister is in office under the present régime, it appears unlikely that the Ecuadorean Government will recede from its position regarding the trade balance clause.

Since transmitting my despatch No. 918 of October 7, 1937,⁴⁸ regarding the apparent discrimination against the United States on the part of Ecuador in granting import licenses, I have exchanged considerable correspondence with the Consul General at Guayaquil on the subject of commercial relations under the *modus vivendi*⁴⁹ and have recently requested him to report to the Legation all specific cases of discrimination which may come to his attention. In this connection, I should appreciate further instructions as to what action the Department wishes taken on individual cases of discrimination in the issuance of import licenses.

Respectfully yours,

ANTONIO C. GONZALEZ

611.2231/219

The Department of State to the Ecuadoran Embassy

MEMORANDUM

The Government of the United States has deeply regretted the fact that there have been unforeseen delays in the negotiations for a trade agreement with the Government of Ecuador. This Government has looked forward to the active participation of the Government of Ecuador, through the medium of a trade agreement, in its program for the liberalization of world trade, and has continued to hope that a mutually satisfactory solution would be found at an early date of the problems that have arisen during the course of those negotiations.

The Government of the United States is firmly convinced of the advantages to be gained by all trading nations from the progressive removal of restrictive barriers to the free flow of international trade in its natural channels. The diverse and often complementary nature of the products of the various trading countries indicates the necessity for generally expanding markets rather than limited markets. The latter are the inescapable result of restrictive measures and the artificial diversion of trade through bilateral balancing between pairs of countries.

In the current negotiations for a trade agreement between Ecuador and the United States, the Government of Ecuador has made the ob-

⁴⁸ Not printed.

⁴⁹ Provisional commercial agreement between the United States and Ecuador signed June 12, 1936, Department of State Executive Agreement Series No. 93, or 49 Stat. 4013; see also *Foreign Relations*, 1936, vol. v, pp. 484 ff.

servation that it would be very difficult for it to make any reductions in its import duties which might have the effect of weakening its financial position at a time when existing revenues were already declared to be insufficient for the country's needs.

With reference to this observation, it may be pointed out that the Government of the United States expects in a trade agreement with Ecuador only such concessions and assurances as the Government of Ecuador believes can be given without prejudice to the national economy. At the same time, this Government believes that while reductions in import duties in a trade agreement may temporarily lower government revenues from this source, increased imports made possible by such reductions may well result in customs revenues as large as, or larger than, those collected prior to the duty reductions.

It is stated, however, that it is impossible for Ecuador to increase its purchases because in order to buy more it must sell more, and the proposed trade agreement with the United States does not seem, in the opinion of the Government of Ecuador, to promise the attainment of the last-named objective. The Government of the United States calls attention to the fact that possible concessions and assurances to Ecuador, on the basis of 1935 Ecuadoran statistics embrace 94.4 percent of Ecuador's exports to the United States, deducting mineral earth and precious metals from the totals. This extremely high trade coverage deserves careful consideration in appraising the value of a trade agreement such as the United States has proposed. It would of course not be just for the United States to be penalized for having permitted the largest part of its imports from Ecuador to enter this country free of import duties in past years. This would imply that only by having granted less favorable customs treatment to Ecuadoran products in the past, could this Government now extend more favorable treatment.

Another consideration merits mention at this point. In addition to the direct benefits accruing to Ecuador from association and co-operation with the United States in liberal trade policies as worked out in a trade agreement are the indirect benefits arising from trade agreements made by the United States with countries constituting important markets for Ecuadoran products. Benefits for Ecuador cannot help but result when the purchasing power of its customers is improved. This Government has only recently announced intention to negotiate an agreement with the United Kingdom⁶⁰ and a new agreement with Canada.⁶¹ Negotiations with other countries may be anticipated. Important agreements have already been concluded with countries which purchase substantial amounts of Ecuadoran

⁶⁰ See Department of State, *Press Releases*, November 20, 1937, p. 383.

⁶¹ See *ibid.*, p. 388.

products, such as France,⁶² Belgium,⁶³ The Netherlands⁶⁴ and Sweden.⁶⁵ Broadening of trade relations between these countries and the United States on an unconditional most-favored-nation basis should stimulate the demand for Ecuadoran products in those countries.

In connection with the desire expressed by the Government of Ecuador that the proposed trade agreement contain a proviso limiting the extension of unconditional most-favored-nation treatment to the United States to such periods as the trade balance between the two countries is "favorable" to Ecuador, this Government does not question the need of Ecuador to maintain an active merchandise trade balance in the total of its international accounts with all foreign nations in order to meet "invisible" obligations. However, this Government has consistently maintained the view that it is a practical impossibility for this condition to be worked out successfully by pairs of countries, that is, by the bilateral balancing of the trade one country has with each other country with which it carries on business. In fact, attempts so to apply this principle inevitably tend to nullify many of the gains that result from international trade, by artificial diversion of trade from its natural channels. Various studies made in recent years have shown incontrovertibly that when trade is forced into artificial channels, its volume tends to decline and supply and cost factors have to be disregarded to some extent.

The Government of the United States is most gratified to note the increasing number of important trading nations which are joining with it in the furtherance of its trade-agreement program. It is hoped that in the near future the negotiations already begun with the Government of Ecuador, may culminate in the conclusion of a mutually advantageous trade agreement.

WASHINGTON, November 27, 1937.

611.2231/217a : Telegram

The Secretary of State to the Minister in Ecuador (Gonzalez)

WASHINGTON, December 1, 1937—5 p. m.

55. For the Legation's confidential information, the Department gave Ambassador Alfaro, prior to his departure yesterday by air for

⁶² Signed May 6, 1936, Executive Agreement Series No. 146, or 53 Stat. 2236; see also *Foreign Relations*, 1936, vol. II, pp. 85 ff.

⁶³ Signed February 27, 1935, Executive Agreement Series No. 75, or 49 Stat. 3680; see also *Foreign Relations*, 1935, vol. II, pp. 102 ff.

⁶⁴ Signed December 20, 1935, Executive Agreement Series No. 100, or 50 Stat. 1504; see also *Foreign Relations*, 1935, vol. II, pp. 579 ff.

⁶⁵ Signed May 25, 1935, Executive Agreement Series No. 79, or 49 Stat. 3755; see also *Foreign Relations*, 1935, vol. II, pp. 739 ff.

Quito, a memorandum ⁶⁶ summarizing this Government's views on the pending trade agreement negotiations with Ecuador. The memorandum devoted particular attention to the Ecuadoran insistence on the trade balance proviso and also made it clear that this Government does not expect more from Ecuador in the way of concessions than the latter feels able to grant.

The Department is sending you a copy of the memorandum by air mail.

HULL

⁶⁶ *Supra.*

EL SALVADOR

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND EL SALVADOR, SIGNED FEBRUARY 19, 1937¹

[For the text of the agreement, signed at San Salvador, see Department of State Executive Agreement Series No. 101, or 50 Stat. 1564.]

POLICY OF NON-INTERFERENCE IN THE INTERNAL AFFAIRS OF OTHER AMERICAN REPUBLICS AS APPLIED TO PROPOSED CON- TINUANCE IN OFFICE OF PRESIDENT MARTINEZ

816.00/1010

The Minister in El Salvador (Corrigan) to the Secretary of State

No. 1073

SAN SALVADOR, July 29, 1937.

[Received August 9.]

SIR: I have the honor to submit the following additional data concerning the actual political situation as regards the next Presidential period.

President Martínez' quiet efforts to sound out public opinion and enlist support for his program of "constitutional reform", which really means extension of his period in the office of President, have become a matter of general knowledge. There has been no press publicity but the news has spread by word of mouth and public opinion is being formed. This opinion is divided, but the trend seems to be adverse to the proposal. The wealthiest Salvadorans and leaders of the foreign groups as well as the political job-holders encourage the continuance in office of President Martínez. The foreign businessmen and wealthier Salvadorans are inspired by fear of the menace of "communism" and remember his record in that regard. They feel that he can suppress any efforts of radical elements to assume control. They are ruled by fear rather than love.

Desire to retain their present positions is the guiding motive of the group in Government service who favor the continuance. The present Government officials are by no means united in this regard. I should say that two cabinet ministers favor continuance, one is neutral, and one has told me that he would resign rather than support the proposal.

¹ For previous correspondence, see *Foreign Relations*, 1936, vol. v, pp. 558 ff.

A large part of the population is voiceless, but nearly all elements of the country intelligent enough to have an opinion resent the idea of "continuismo", the word commonly used to express the idea of continuance in office by a President beyond his legal term.

I have a number of close contacts among physicians who look upon me as a medical colleague and are wont to discuss freely in my presence the things that interest them. They come in contact with all elements, and their conversations are illuminating as to the ebb and flow of public opinion. Continuation in office of General Martínez has now become a matter of general discussion. Censorship of the press is rigid, but freedom of verbal expression can not be suppressed in Salvador. At social gatherings, groups of intimates collect and political discussion begins. Up to the present they have been conducted without heat, but signs are plentiful that this matter of "continuismo" will become a burning question long before the date of the next election.

Powerful elements in the Martínez administration oppose the program. As reported above, one cabinet minister . . . told me he would resign if Martínez persisted in his efforts to prolong his period beyond the time for which he was elected, and he has been one of Martínez' steadiest supporters. Two other cabinet ministers . . . are using their powerful influence in favor of prolongation of the Presidential period. Their influence and the apparent desire of the Executive seem to be dominant at present. . . . maintains a neutral attitude.

Indications are plentiful that there will be fierce and determined opposition from important sections of the Army as well as the general public. If the characteristic stubbornness of the Executive manifests itself in a determination to force the issue, even in the face of an adverse public opinion, there is likely to be a reaction fraught with troublesome possibilities. Disturbance of public order may well occur.

Motivated by the belief that its influence as representing the Government of the United States could be a determining factor in the controversy, various efforts have been made by both of the opposing camps to sound out or influence the attitude of the Legation.

Some of these efforts have been referred to in previous despatches (No. 1033 of May 25, 1937, and No. 1054 of June 30, 1937²).

In conformity with the Department's policy as set forth in confidential instruction No. 216 of April 30, 1936,³ the Legation's attitude in the face of these efforts has been completely "hands off", that is to say, unequivocally non-committal.

² Neither printed.

³ The same as instruction No. 103, April 30, 1936, to the Minister in Honduras, *Foreign Relations*, 1936, vol. v, p. 134.

Consideration of the Department is now invited to the probability that maintenance of this completely negative attitude will weigh heavily in favor of the program of constitutional "reform" and "continuismo" by giving it tacit approval. It is bound to be so construed. I trust that I have correctly interpreted the Department's policy, but as the responsibility is very grave and since the instruction referred to was a general one, I would appreciate instructions applying to the case in point for further guidance of the Legation's attitude as the situation becomes more acute.

So that the Department may be fully informed in the premises, I hope that I may be pardoned for expressing a personal viewpoint which, of course, in no way affects my official actions as directed by the Department's instructions. There arises in this instance the old question of reconciliation of the completely cold "hands off" interpretation as against the warmer implications which seem to me to be inherent in the "Good Neighbor" policy. I am heartily in accord with the policy of non-interference in Salvadoran affairs. Forcible intervention in America properly belongs to an age that is past. However, the moral influences of this and other missions in the American republics continues to be a potent factor which can be utilized for good ends. I am sure no American would wish these missions to lose prestige so long as that prestige is based on good will and fair dealing. It would be premature to try to set forth at once the policies that should be adopted so as to best utilize this power for good. Emphasis up to the present has been placed upon the negative, or "hands off" phase of our continental policy. The present situation in El Salvador shows clearly that a negative attitude may have a positive result, and perhaps one not to our liking. The actual replacement of democratic institutions by dictatorial or Fascist régimes in many Latin American countries, and the imminence of its happening here, brings up the question of whether there is not a moral responsibility implicit in the interpretation of the "Good Neighbor" policy. The simile of a fire in the neighbor's barn is here in point.

The Department has, in one instance, (Instruction No. 78 of May 21, 1937 [1934] ⁴ in reply to Minister Lane's No. 192 of May 4, ⁵ in Nicaragua) approved of assumption of responsibility of the "Good Neighbor" by expressing views, preferably as the personal views of the diplomatic representative which might serve to maintain the peace of the country and consequently avoid bloodshed and disorder. (The above paragraph is a paraphrase of the Despatch in reference.) Opposition or adverse criticism, informally expressed, as the personal views of the Minister might in this instance be a determining factor

⁴ *Foreign Relations*, 1934, vol. v, p. 554.

⁵ *Ibid.*, p. 552.

in halting the beginning of a Dictatorship and the preservation of legal and constitutional commitments in El Salvador. The elements favoring continuance are not yet quite sure of their ground. An unofficial frown at this juncture might have a decisive influence.

A dictatorship here, on account of the spirit of the people, would have to be maintained by oppressive measures.

It seems likely, therefore, and would be useful to this Mission to have the Department's instructions upon the local situation with relation to the deeper and more positive implications of our established continental policy of the "Good Neighbor".

Respectfully,

FRANK P. CORRIGAN

816.00/1010

The Secretary of State to the Minister in El Salvador (Corrigan)

No. 325

WASHINGTON, August 13, 1937.

SIR: I refer to your strictly confidential despatch no. 1073 of July 29, 1937, reporting developments with regard to the possible continuance in office of President Martinez. You request the Department's instructions relative to the situation in El Salvador in particular relation to the Good Neighbor policy.

As you anticipate, it is highly probable that as the movement with regard to President Martinez' continuance in office gathers momentum your Legation will be approached by those in favor of or against the movement for a friendly and unofficial word of advice. As these situations arise, you will continue to be guided by the Department's strictly confidential instruction no. 216, of April 30, 1936,^{*} outlining the considered policy of the Department with regard to non-intervention in the internal affairs of the other American republics. If this Government is not to become involved in the internal political situation in El Salvador, it is obvious that we must avoid expressing opinions or giving suggestions with reference to internal politics in that country. It is believed that you can consistently decline to comment on the developing situation without in any way impairing the prestige of your mission.

Very truly yours,

For the Secretary of State
SUMNER WELLES

^{*} The same as instruction No. 103, April 30, 1936, to the Minister in Honduras, *Foreign Relations*, 1936, vol. v, p. 134.

HAITI

POSTPONEMENT OF NEGOTIATIONS RESPECTING THE TERMINATION OF FINANCIAL CONTROL IN HAITI PENDING EFFORTS BY HAITI TO OBTAIN A REFUNDING LOAN¹

838.51/3284 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 4, 1937—noon.

[Received 2:15 p. m.]

4. My despatch No. 426 of February 25² and enclosures. Leger³ stated this morning that last week President Vincent received a letter from Darnet⁴ in New York stating that Schroder⁵ is still actively interested in a loan of the nature outlined in the said enclosures and was this week sending a representative to Washington to ascertain the Department's attitude toward such loan so that he (Darnet) hoped to Send Vincent something more definite on or before March 6.

Leger said that if such a refunding loan could be arranged there is no use going on with the protocol negotiations but that if this proposal again came to naught he intended to proceed actively with negotiations for the protocol and for the consummation of the Eberstadt⁶ 5 million dollar public works loan.

If a Schroder representative is in fact in touch with the Department this week I trust that it may be found feasible to improve the opportunity to preclude the possibility referred to in the penultimate sentence of my despatch under reference.⁷

It is also to be noted that up to date Darnet has made no serious mention of contractual guarantees for the proposed loan. If in communication with the Schroder representative the Department can elicit anything concrete concerning such contractual guarantees I should appreciate being informed thereof either by cable or by open air mail.

GORDON

¹ For previous correspondence regarding negotiations for termination of financial control, see *Foreign Relations*, 1936, vol. v, pp. 599 ff.

² Not printed.

³ Georges Leger, Haitian Minister for Foreign Affairs.

⁴ Pierre Darnet, representative of a group of bankers.

⁵ J. Henry Schroder Banking Corporation of New York.

⁶ Ferdinand Eberstadt, of F. Eberstadt & Company of New York.

⁷ i. e., that funding loan proposals would open up the possibility of considerable further delay in negotiations for protocol regarding termination of financial control.

838.51/3284 : Telegram

The Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, March 6, 1937—1 p. m.

5. Your 4, March 4, 12 noon. Bogdan⁸ of Schroder and Company had an interview with Duggan⁹ on March 1 in which he stated that Schroder and Company were still interested in forming a banking group in which presumably substantial American interests would participate for floating a refunding and construction loan for Haiti. Bogdan stated Schroder's interest was predicated on a substantial portion of this proposed loan being exchangeable for German marks in order to release frozen credits in Germany of American firms. These marks would be used in the purchase of equipment and supplies for construction and for the payment of the services of Swiss Brown Bouverie as public works contractors. Bogdan affirmed that Darnet produced several letters from Leger which made it clear *inter alia* that Haiti had no objection to a certain amount of blocked marks or to the use of German construction equipment and that for a refunding loan Haiti would sell or pledge the Bank and permit customs control by the bankers.

With reference to paragraph 3 of your telegram, while the Department agrees that it is regrettable that negotiations for a protocol should be further delayed, it does not feel that it would care to take any steps which might later give the Haitian Government any grounds for alleging that this Government intervened to prevent Haiti obtaining a refunding loan at this time.

A copy of the memorandum of the interview is being forwarded by open air mail today.

HULL

838.51/3287 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 12, 1937—2 p. m.

[Received 4:15 p. m.]

5. Department's telegram No. 5, March 6, 1 p. m., refers to alleged letters from Leger, making it clear that for a refunding loan Haiti would permit customs control by the bankers (see also my despatches Nos. 434 and 439 of March 8 and 9, respectively¹⁰).

I am now informed that in conversations this week between Leger and the fiscal representative,¹¹ the former stated categorically that

⁸ Norbert A. Bogdan, Vice President of Schroder Banking Corporation.

⁹ Laurence Duggan, Chief of the Division of Latin American Affairs.

¹⁰ Neither printed.

¹¹ Sidney de la Rue.

the Haitian Government would not grant such customs control. The fiscal representative pointed out that if Darnet is representing in New York that the Haitian Government will grant such customs control, and the Government is determined not to do so, a situation will eventually be precipitated where Haitian credit is likely to suffer. Leger agreed but insisted that on the present occasion Schroder could not have received any such false impression from Darnet as he (Leger) had been careful to tell Darnet specifically that the Haitian Government would not assign customs control.

It seems to me that it would clarify matters and help bring them to a head if the Department would authorize me to tell Leger that I have been informed that although the Haitian Government is not prepared to grant customs control for a refunding loan, in New York, Darnet is representing that the Haitian Government is prepared to do so; also, at the same time I think it would also be helpful to point out that Leger is in error in believing and stating that the Department has affirmatively stated that it has no objection to this new loan proposition and that it is friendly thereto.

The Department's instructions will be appreciated.

GORDON

838.51/3286

The Secretary of State to the Minister in Haiti (Gordon)

No. 458

WASHINGTON, March 15, 1937.

SIR: The Department refers to its instruction of March 6, 1937, transmitting a memorandum of a conversation¹² on March 1, 1937, between the Chief of the Latin American Division and Mr. Norbert A. Bogdan of the J. Henry Schroder Banking Corporation; to your despatch No. 434 of March 8, 1937,¹² concerning the activities of this company, and of Mr. Pierre Darnet; to your telegram No. 6 [5] of March 12, 2 p. m., and to your despatch No. 439 of March 9, 1937.¹³

The Department has given careful consideration to the remarks made by Mr. Bogdan with respect to the proposed loan plan in which Schroder and Company is interested. In keeping with its present policy, the Department will not express any views regarding the loan project to Schroder and Company. It does desire, however, to lay certain observations before the Haitian Government and to urge their most careful consideration. Accordingly, unless you perceive objection to the observations set forth hereafter, you should request, at the first opportunity, an interview with President Vincent, or if

¹² Not printed.

¹³ Despatch not printed.

you deem it preferable, with the Minister for Foreign Affairs, and present to him orally the following views of this Government.

You may say that this Government is prompted to present certain considerations to the Haitian Government because of its truly sincere interest in the welfare of Haiti. It feels confident that the Haitian Government will receive these observations in the same spirit they are made, and will appreciate that they arise out of a desire that the Haitian Government be in possession of certain information and matured judgments before making any decision as to a loan. This Government, moreover, far from desiring to see any obstacles raised to the security of a refunding loan would welcome a loan that would terminate its financial responsibilities in Haiti.

I. After this preliminary statement, you may say that the Department understands that the sole interest of Schroder and Company in a loan to Haiti is to liberate all or part of blocked mark credits in Germany belonging to certain clients of Schroder and Company. Inasmuch as these blocked mark credits can be only employed for purchases in Germany, it is presumed that the Haitian Government would use them for the purchase of construction equipment and materials in Germany to be used in its public works projects, and, if possible, for the remuneration of the engineering and other services to be performed in connection with such projects by some European contracting firm such as Brown, Bouverie and Company.

It is the understanding of the Department, from various conversations which its representatives have held with representatives of the Haitian Government, that leaving aside for the moment the question of the refunding of the 1922 loans,¹⁴ the desire of the Haitian Government in contracting at this time for a public works loan, has been twofold:

First, to undertake projects which will augment directly the economic prosperity of the country, such as the building of new roads and the improvement of existing roads and trails, the construction of drainage and irrigation ditches, of drying platforms for coffee, and of harbor facilities in the ports of secondary importance.

Second, to provide ample funds for absorbing Haitian labor in these economically sound public works projects, pending the increased general prosperity so confidently expected as a result of President Vincent's wise encouragement and development of the coffee, banana and other industries, which would be directly benefited by the public works in question.

¹⁴ 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 (in French and English), see *Le Moniteur, Journal Officiel de la République d'Haiti*, October 30, 1922, pp. 533 and 537; see also *Foreign Relations*, 1922, vol. II, pp. 472 ff.

Public works projects of the type mentioned in the foregoing paragraphs require, as a general rule, a minimum of equipment and a maximum of labor. Aside from bridges, road construction equipment, tools, cement and other materials, and the services of a few foreign experts, the goods or services which need to be purchased outside of Haiti are limited. Unless the works to be undertaken are much vaster in scale than has so far been indicated, and unless the prices for the material to be imported are higher than those obtaining for such material throughout the world generally, it is consequently difficult to see how, from an economic point of view, any considerable quantity of blocked mark credits could be advantageously employed by Haiti. It is presumed that the Haitian Government is bearing this in mind.

II. It is well known that with the unfavorable exchange situation, and the imperative necessity for concentrating the best class of raw and finished materials and equipment to their own uses, some of the European Governments are exercising very severe control over the selection of commodities which are permitted to be exported against blocked exchange credits. In production, frequent resort is had necessarily to substitutes at the expense of quality in raw materials, and prices are apt to be substantially higher than those in countries whose currencies have international acceptance. Moreover, it is reported that certain countries are actually having difficulty in supplying non-armaments construction material. This uncertainty as to prompt deliveries of material, appears to increase in proportion to the emphasis that is being placed in these countries upon augmenting their own armaments.

III. It has been and is the policy of this Government to assist the Haitian Government and Haitian people in securing, at the earliest possible moment, complete control over the conduct of their own affairs. In keeping with this policy, the United States was happy to terminate, prior to the expiration of the treaty, its connections with Haitian affairs, with the exception of financial matters which were the subject of a special accord in 1933.¹⁵ A year later when President Vincent informed President Roosevelt of the widespread desire of the Haitian people for a modification of the accord, President Roosevelt indicated his entire willingness to negotiate a new accord¹⁶ by which the present United States financial control would be substituted by an arrangement for the retirement of official United States supervision over Haitian financial affairs. For this reason this Government cannot give credit to the representations alleged to have been made by

¹⁵ Agreement of August 7, 1933, *Foreign Relations*, 1933, vol. v, p. 755.

¹⁶ See telegram No. 18, April 18, 1934, to the Minister in Haiti, *ibid.*, 1934, vol. v, p. 352.

Mr. Pierre Darnet to the J. Henry Schroder Banking Corporation on the basis of letters said to have been written by responsible Haitian officials to the effect that the Haitian Government would, in return for a refunding loan, consider offering the control of the recently acquired National Bank of Haiti and the collection of the Haitian national customs revenues to bankers with whom might be associated foreign bankers and through them foreign governments. In this connection, the Department recalls the frequently reiterated affirmations of various Haitians prominent in public and private life that once free, Haiti would never again submit to foreign control, fiscal or otherwise.

This Government was, accordingly, most heartened by the affirmation of the Minister for Foreign Affairs and for Finance to the Fiscal Representative that the Haitian Government did not at this time contemplate the assignment of customs control.

IV. In conclusion, and as an earnest of its confidence that Haitian policy still is directed towards the complete recovery of its financial sovereignty, this Government desires to reiterate that it stands ready at any time to continue the negotiation of a protocol to terminate official United States financial control in Haiti under such suitable guarantees as may adequately protect the holders of the bonds of the 1922 Haitian loan. The Minister of the United States is prepared to carry forward the negotiations at the convenience of the Haitian Government.

There is enclosed herewith a copy of a memorandum of conversation, dated March 13,¹⁷ between Mr. Bogdan of Schroder and Company, and Mr. Duggan.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

838.51/3291 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 20, 1937—11 a. m.
[Received 4:35 p. m.]

8. I have just presented orally to the Foreign Minister our Government's views as set forth in the Department's instruction No. 458 of March 15. In the ensuing conversation which lasted an hour the Foreign Minister made the following statements:

The Haitian Government has no intention of granting customs control in return for a refunding loan. If necessary, the Haitian Government would be prepared to set up something in the bank in the nature

¹⁷ Not printed.

of an attenuated "bank plan" to guarantee the service of the loan; so far, however, nothing of the kind has been suggested and the Foreign Minister's proposal to Schroder has only dealt with this point by stating that the bank would remain the exclusive agency for receiving Government moneys upon which there would be a first lien for the service of the loan.

The Foreign Minister has made the following proposal to the potential lenders: the Haitian Government to sell them a two-thirds interest in the bank for \$1,000,000 in cash—all profits made by the bank to be distributed prior to the sale—the capital to be increased by \$500,000, to be taken by the Haitian Government which would thus retain a one-third interest in the bank with proportionate representation on the Board of Directors; concessions under which the bank operates to be made conterminous with the life of the loan.

The Foreign Minister declared that he intended immediately to write Schroder to clear up the discrepancy arising from statements being made in the United States that the Haitian Government is willing to grant customs control.

The Haitian Government has no special interest in buying German construction material; if a reasonable refunding loan proposition were presented to the Haitian Government which included the purchase of American building material the Haitian Government would be better pleased. However, if the only feasible refunding loan proposition made to the Haitian Government comprises the purchase of German building material the Foreign Minister was willing to buy with blocked marks just as much of such material as he needed and no more; his position in this respect remains as he had stated it to the fiscal representative for communication to Schroder (see enclosure No. 2 to my despatch No. 426 of February 25¹⁸).

I spent some time stressing the considerations set forth in section II of the Department's instruction under reference. The Foreign Minister said he understood these points and that he was prepared to take all necessary precautions. I told him that, speaking personally, I had had considerable opportunity to observe at first hand a [apparent omission] to unload blocked marks as well as to unfreeze exchange credits of other denominations and after pressing this point upon him in some detail he did seem to be somewhat impressed.

As regards the point of granting customs control to bankers with whom might be associated foreign bankers and through them foreign governments, the Foreign Minister said that he knew nothing of any foreign bankers being connected with the Schroder proposition. When I asked him about Brown Bouverie and reminded him that when the Debachy loan¹⁹ was being peddled about this firm had been

¹⁸ Not printed.

¹⁹ See *Foreign Relations*, 1935, vol. iv, pp. 667 ff.

represented as having both a contracting and a financing interest, he said that as far as he knew they were only in it as contractors and he was unaware of their having any interest in the financing of the scheme; he had thought that through the London house of Schroder some English money might be participating in the loan but he knew nothing definite even as to this and was unaware of any other foreign money being involved. It was evident that the Foreign Minister felt that he had made considerable progress in the Schroder negotiations and was quite sanguine of the loan going through. One interesting piece of information was that White, Weld and Co. had recently sent a representative to see him. The Foreign Minister said he told this representative that he had authorized Schroder to proceed with the formulation of a loan proposition and the formation of an underwritings group and had suggested that White, Weld might desire to participate in the Schroder group. I take it that a permissible inference therefrom is that White, Weld had nothing more attractive to offer than Schroder. The Foreign Minister agreed that if in spite of his expectations the loan were to break down on the question of customs control it was better to know it at once than to proceed further under a misapprehension, and it was desirable to clear this up and bring the matter to a head as soon as possible; he also admitted that if the loan were to break down it was high time to proceed actively with the negotiations for a protocol terminating our financial control.

GORDON

838.51/3306

The Minister in Haiti (Gordon) to the Secretary of State

No. 470

PORT-AU-PRINCE, April 8, 1937.

[Received April 12.]

SIR: With reference to my despatch No. 464 of April 6,²⁰ reporting that President Vincent professed to believe that the Schroder negotiations were progressing well, I have the honor further to report that the Foreign Minister yesterday expressed the same view to the Fiscal Representative and said that he now had good reason to believe that the negotiations would lead to a satisfactory agreement, and from letters he had received he felt that this agreement would be reached prior to August 1; while he realized that the money from the loan would probably not be forthcoming until the autumn, he hoped in the loan contract to include a stipulation for an advance, at the time of signing the contract, sufficiently large to enable the Haitian Government to start on its public works program.

²⁰ Not printed.

M. Léger said he accordingly felt that it would be futile for him to conduct conversations with the Fiscal Representative looking to the formulation of a satisfactory Bank Plan and the consequent signature of a protocol terminating our financial control.

Respectfully yours,

GEORGE A. GORDON

838.51/3321

The Secretary of State to the Minister in Haiti (Gordon)

No. 478

WASHINGTON, May 7, 1937.

SIR: During the last week, the new Haitian Minister ²¹ has called a number of times at the Department for informal conversations with regard to the proposed loan by the J. Henry Schroder Banking Corporation, and the suspended negotiations with this Government for the termination of official United States financial control in Haiti. The attached memoranda,²² and other documents, fully summarize these conversations.

It will be noted that the Minister has stated his belief that the negotiations for conclusion of the protocol which will terminate United States financial control in Haiti should be resumed and expedited. Furthermore, in his undated memorandum which was communicated under cover of a personal letter to Mr. Welles of April 30, 1937,²³ the Minister appears to advance only two main points of difference between the two Governments with respect to the proposed protocol, namely, (1) the amount to be allocated to the National Bank for carrying on the "Treasury" and other services to be entrusted to it upon the abolition of the office of the Fiscal Representative, and (2) the size of the personnel that is to form the so-called "Government Side" of the Bank.

It will also be noted that the Department, with regard to the first point, has suggested for consideration a fixed annual amount of 800,000 gourdes, and with regard to the second, has pointed out that the plan as suggested by this Government envisages a curtailment of fifty percent in the number of Americans now in the service of the Fiscal Representative, who are to be transferred to the National Bank. The Haitian Minister expressed the belief that his Government would be satisfied with these two proposals and added that he would, on his part, urge the acceptance of this solution upon his Government.

At some appropriate time in the near future you are requested, unless you perceive objection to these most recent proposals, to inform the

²¹ Elie Lescot.

²² Not printed.

²³ Neither printed.

Minister of Foreign Relations that this Government not only stands ready, but desires to conclude the negotiations for the termination of United States financial control in Haiti, and that as a solution of the only two important points which it is understood, stand in the way of a final agreement, the Department is prepared to suggest for consideration the proposals above mentioned. You may add that the Department has arrived at these proposals only after mature consideration, animated as always by its desire to meet legitimate Haitian aspirations as far as may be consistent with the responsibilities which both Governments have assumed with respect to the holders of the bonds of the Haitian loans of 1922.

It seems scarcely necessary to say that the Department relies on your discretion not to embarrass the Haitian Minister here. M. Lescot has given every evidence of being extremely frank and helpful in his approach to the Department . . . M. Lescot, it may be added in conclusion, has admitted that his knowledge of the more intimate and detailed phases of the Schroder loan proposal and the protocol negotiations is somewhat limited, and the Department, therefore, is unable to judge how much of his belief that the Haitian Government would accept the two new proposals of this Government, is founded in fact on the position of the Haitian Government and how much is founded on his own desire to be cooperative.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

838.51/3322 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, May 10, 1937—11 a. m.
[Received 1:13 p. m.]

15. With reference to the Department's instruction No. 478 of May 7, received this morning and more especially the last sentence thereof, I greatly fear that Lescot's belief is principally founded on his own desire to be cooperative.

My despatch No. 470 of April 8 and previous communications to the Department show that Leger has consistently been unwilling to proceed with protocol negotiations as long as he thought he had any chance of getting a refunding loan. He now professes to think that this chance is better than ever and in view thereof he suggested to de la Rue (who arrives in New York today) that he take his vacation now rather than in August.

Amplifying despatch by tomorrow's airmail.

GORDON

838.51/3383

*Memorandum From the Haitian Legation Embodying the Principal Points of a Note From the Haitian Legation to the Haitian Government, May 8, 1937*²⁵

[Translation]

1. The American Government agrees to reduce the number of the present functionaries of the Fiscal Agency to seven, thus reducing the number, which is now fourteen, by one-half;

2. No percentage will be considered for assuring the functioning of the new service to be established. As there is a discussion at the present time between a minimum of 600,000 Gourdes and a maximum of 1,000,000 to assure the functioning of the said service, the American Government proposes to the Haitian Government to increase the amount of the allocation to 800,000 Gourdes. The American Government in spite of all its good will, considers that the service cannot be carried on with a smaller allocation.

3. The amount of the service on the loan and that of the salaries of the functionaries carrying on such service, being deducted from the receipts of the Republic, the balance will remain at the free disposal of the Haitian Government without having to obtain any previous agreement of any functionary of the new service to be created.

838.51/3384

Memorandum From the Haitian Legation Embodying the Text of a Note From the Haitian Minister for Foreign Affairs to the Haitian Legation in the United States, May 12, 1937

[Translation]

1. The Government is disposed to accept any reasonable plan and give every guarantee to the holders of the loan of 1922. It deems that the projects it had submitted granted ample protection to the said holders and it is disposed to study any method which might give the American Government the satisfaction that it might consider necessary.

2. The Haitian Government does not believe that it would be good policy to agree to transfer, as the American Government desires, the Office of the Fiscal Representative to the National Bank of the Republic of Haiti. In the first place such a transfer would disorganize in part the Haitian Financial Administration and would oblige the Government, after the eventual repayment of the 1922 loan, to undertake a new reorganization of the said services. Moreover, Haitian public opinion, which has always understood that the Haitian Government

²⁵ Handed to the Assistant Secretary of State, May 17, 1937.

had made the purchase of the National Bank of the Republic of Haiti for the purpose of terminating the control of the Office of the Fiscal Representative, would not understand why the operation simply resulted in transferring the said Office as it is now organized and with almost the same powers to the National Bank of the Republic of Haiti.

The Haitian Government is of the opinion that the Office of the Fiscal Representative should be Haitianized and should be kept as a permanent part of the Haitian financial organization. It thinks that, furthermore, in order to give satisfaction to the American Government and the holders of 1922, an additional Service of Control should be organized in the National Bank of the Republic of Haiti, which Service would be scheduled for elimination as soon as the 1922 loan was repaid.

Such is the fundamental opinion of the Haitian Government, which opinion has been set forth and developed at length.

838.51/3326a

*The Assistant Secretary of State (Welles) to the Haitian
Minister (Lescot)*

WASHINGTON, May 18, 1937.

MY DEAR MR. MINISTER: On the occasion of your visit yesterday you were good enough to leave with me a memorandum of the principal points of your note of May 8 to your Government which represent faithfully the concessions which my Government is prepared to make in order to facilitate and expedite an agreement to liquidate United States financial control in Haiti.

With regard to your other memorandum containing the points of view of Mr. Léger as set forth in his note to you of May 12, 1937, I have given it my personal attention and submit for your and his further consideration an informal memorandum in reply.

With warm personal regards, believe me,

Yours sincerely,

SUMNER WELLES

[Enclosure]

The Department of State to the Haitian Legation

MEMORANDUM

1. The Government of the United States on its part is disposed to consider favorably any reasonable plan for the liquidation of United States financial control in Haiti, whether upon the basis of the transfer to the National Bank of Haiti of the services now performed by the Office of the Fiscal Representative or upon any other acceptable basis.

This Government believes, however, that the plan which it has proposed to the Haitian Government on November 18, 1936,²⁶ as modified by the note and documents delivered on December 23, 1936,²⁷ is the only one which has so far been advanced that satisfactorily safeguards the rights of the bondholders of the 1922 loan and thus permits this Government to agree to the termination of the present system of financial control in Haiti.

2. The Government of the United States does not share the opinion of the Haitian Government that the proposed transfer to the National Bank of Haiti of the services now performed by the Fiscal Representative would partially disorganize the financial administration of Haiti. This Government desires to point out that the duties of the proposed "Service of Control of Receipts and Expenditures of the Republic" as outlined in the documents accompanying Mr. Léger's note of November 26, 1936,²⁸ would appear in part to be already carried out at present by the Haitian Ministry of Finance while other duties parallel those which admittedly must be performed by the proposed Government side of the National Bank even according to Mr. Léger's plan, and thus constitute triplication of effort in some instances. This Government would be greatly pleased to see the present organization of the Ministry of Finance, or of whatever office the Haitian Government may designate, gradually trained and developed to the point when, upon the retirement of the 1922 loans, it should be a simple process to amalgamate the remaining personnel of the Government side of the Bank with that of the Haitian financial administration and form one sole financial service.

WASHINGTON, May 18, 1937.

838.51/3348

The Minister in Haiti (Gordon) to the Secretary of State

No. 499

PORT-AU-PRINCE, June 2, 1937.

[Received June 4.]

SIR: With reference to my despatch No. 404 of February 5, 1937,²⁹ and other communications regarding the termination of our financial

²⁶ See despatch No. 346, November 18, 1936, from the Minister in Haiti, *Foreign Relations*, 1936, vol. v, p. 621.

²⁷ See enclosures to despatch No. 438, December 16, 1936, to the Minister in Haiti, *ibid.*, p. 646.

²⁸ *Ibid.*, p. 627.

²⁹ Not printed.

control in Haiti, I have the honor to transmit herewith a copy of a note received this morning from the Minister for Foreign Affairs.³⁰ As he only transmitted this one copy and I am anxious to get it off today before I leave, I am enclosing it without waiting to have further copies made. A translation of the note will be forwarded by the next air mail.

I have made a few pencil notations on this copy of points in the note which seem to me especially defective, which I trust will be self-explanatory. It will be noted that Léger has not attempted to formulate counter-proposals to the proposals which I submitted to him on December 23, as he has frequently indicated that he would do. As the Department will observe the note closes by saying that if the American Government has any modifications to propose to the original Haitian proposals of last November the Haitian Government will be glad to examine them, quite regardless of the fact that this is just what we did—six months ago.

In conversation with Léger I pointed out to him that this note does not advance matters; it merely reiterates objections to our position which he and I had gone over time and again and which I have reported to the Department, and gets us nowhere. I said that as I had submitted to him a detailed and carefully worked out plan of organization, the logical procedure was for him in his turn to work out a plan of organization differing from ours in the respects which he did not find acceptable, and that the most practical way to set about this—as he had already expressedly realized—was to get down to the discussion of specific details with the Fiscal Representative.

Léger then said that this was true and that on reflection he thought that this was just what he would do in the near future.

I shall be glad to report more fully orally, when I reach the Department next week, this conversation with Léger.

Respectfully yours,

GEORGE A. GORDON

838.51/3351

The Chargé in Haiti (Finley) to the Secretary of State

No. 500

PORT-AU-PRINCE, JUNE 2, 1937.

[Received June 8.]

SIR: I have the honor to refer to the Legation's despatch No. 499 dated today and to enclose for the Department's consideration additional copies and a translation of the Haitian Government's note dated

³⁰ *Post*, p. 540.

May 31, 1937, with regard to the conclusion of a protocol for the termination of American financial control in Haiti.

Respectfully yours,

HAROLD D. FINLEY

[Enclosure—Translation]

The Haitian Minister for Foreign Affairs (Leger) to the American Minister (Gordon)

PORT-AU-PRINCE, May 31, 1937.

MR. MINISTER: I have the honor to acknowledge the receipt of your communication dated December 21, 1936, as well as of the memorandum and the six *aide-mémoires*³¹ which accompanied your despatch.

You have been good enough to note the agreement which exists between your Government and the Haitian Government with regard to the text of the proposed protocol transmitted by Your Excellency the 18th of November, 1936, and to express the sentiment that the several points with regard to the proposed note which would form part of the protocol, and concerning which disagreement persists, do not seem to you to be important points nor to raise difficulties of a kind to prevent the conclusion of a final agreement. In this connection, you have gone on to show that when the question of the purchase of the National Bank of the Republic of Haiti by the Haitian Government and that of the termination of financial control in Haiti were raised in 1934,³² the tacit or actual intention expressed by the two Governments, as this is understood by the American Government, was that the essential services of the office of the Fiscal Representative should be transferred to the National Bank of the Republic of Haiti. Your Excellency adds that although there have been changes in the personnel of those who were the negotiators in 1934, its common intention has remained unchanged and consequently your Government believes it necessary to record in writing certain obligations of the Haitian Government which, according to Your Excellency, although they were assumed verbally are nevertheless in existence.

It is scarcely necessary to say that the Haitian Government does not intend to escape from any obligations it has taken, but, since Your

³¹ These documents together with the Minister's communication were delivered on December 23, 1936; see telegram No. 67, December 23, 1936, 1 p. m., from the Minister in Haiti, *Foreign Relations*, 1936, vol. v, p. 667. The documents were communicated to the Minister with the Department's instruction No. 438 of December 16, 1936, *ibid.*, p. 646.

³² See *ibid.*, 1934, vol. v, pp. 339 ff.

Excellency has wished to recall from the beginning of your communication of December 21, 1936, the circumstances which surrounded the negotiations of 1934, and the conditions which, according to what your Government understands, were determined upon with a view to the purchase of the National Bank of the Republic of Haiti and of the termination of American financial control, I take the liberty of setting forth the viewpoint of the Haitian Government in this regard.

The purchase of the National Bank of the Republic of Haiti was effected by the Haitian Government at the price of a very great sacrifice considering the financial resources of the Republic. The goal which the Haitian Government aimed at in making this purchase was that it might be enabled to put an end to the financial control of the American Government in Haiti. The Haitian Government indeed consented to accord reasonable guarantees to the holders of the loan of 1922, but it never entered its mind to substitute purely and simply the control of these bondholders for that of the American Government. The conversations which took place between the representatives of the two Governments with regard to the extent of the new control to be organized in favor of the bondholders in the National Bank of the Republic of Haiti, ended with the drawing up of a draft letter and of a memorandum, the text of which was satisfactory to the two high contracting parties. The signature of these drafts has been deferred only by reason of the fact that delays occurred in concluding and putting into force the final contract of purchase of the National Bank of the Republic of Haiti.³³

The Haitian Government believes and supports the contention that this proposed letter and proposed memorandum of 1934 are the final results of the conversations of 1934. Your Excellency, moreover, in the *aide-mémoire* which you kindly communicated to me November 18, 1936, recognized explicitly that the American Government for the past two years has at all times been disposed to sign these agreements only with the modifications which would bring them up to date.

The Haitian Government believes that there should be no question now of modifying these drafts in the sense of an aggravation of the conditions of control granted to the bondholders. From May 1934 to date the debt of the Republic of Haiti has considerably diminished, the Series B bonds of the loan have been entirely paid off, thus relieving the budget of the Republic of quite a heavy annual charge and rendering more certain the situation of the creditors of the State; it seems therefore that in all logic, if changes have to be made in the documents of 1934, these should be rather in the sense of a relief from the proposed control.

³³ See *Foreign Relations*, 1935, vol. iv, pp. 703 ff.

Now it is indisputable that the new texts proposed by Your Excellency constitute an aggravation and an extension of the rights of control, already very large, which the Haitian Government has accepted to give the bondholders, and which had been agreed to by your Government.

Notably the obligation which your Government desires to impose on the Haitian Government of obtaining the previous agreement of the Bank as to the availability of funds before opening supplementary or extraordinary credits is a new addition to the draft agreement of 1934 and an aggravation of that agreement. Since the Haitian Government undertakes not to open credits unless funds are available, it is certain that it will take care to assure itself, before opening any credits, that funds are available, but it does not intend to find itself under the obligation of having to obtain the agreement of the Director of the National Bank of the Republic of Haiti in such circumstances. Such an obligation, if it were accepted by the Government, would perpetuate practically the same situation created by the Agreement of August 7, 1933.

I permit myself once more to remark that the texts of 1934 in no wise imperil the interests of the bondholders for, if the Government should forget itself by taking credits when no funds existed, the Bank could always refuse to issue the checks. Your Excellency has kindly expressed the satisfaction of the American Government with the Haitian Government in the counter-project which it has submitted retaining what Your Excellency denominates the essential phrase of Article 10 as follows:

"It (the Bank) would also have the duty of informing the Secretary of State for Finance of any error which might creep into an order sent to it for payment or in the documents of justification which accompany this order."

Your Excellency thinks that the Ministry of Foreign Relations will agree that such a stipulation calls for the installation in the National Bank of a "Service of Prior Examination (*Contrôle*) of Government Payments", of a "Service of Public Accounting", as well as of a "Service of Issuance of Checks", all of these things which are stipulated in the first phrase of Article 10 of the project proposed by your Government.

I regret that I am not able to give the agreement of my Government in this matter. The Haitian Government does not believe that in order to enable the Bank to point out "any error which might creep into an order for payment", it ought to be necessary to transfer to the said Bank the complete financial organization of the Republic of Haiti. Most of the work, in the opinion of the Haitian Government, should be performed by the permanent cogs of the machine of the

public finance organization in the Republic of Haiti, such as these cogs are at present organized, which cogs should be retained in the Service of Receipts and Disbursements of the Republic to be created in accordance with the plan which I have had the honor to submit to Your Excellency. The control which the Bank is called upon to make in the interest of the bondholders, would be in this case only one of ultimate control as to the regularity of the documents and would demand only a limited personnel, this personnel in accordance with the Haitian Government's project would always have the right of access to and of inquiry in the permanent Services created by the Haitian Government.

Here again I permit myself to insist on the fact that the Haitian Government proposes to rest upon the text which was agreed upon in 1934, and that it does not seek consequently in any way to modify the conditions mutually agreed upon between the parties for the termination of financial control by the American Government in Haiti.

The Haitian Government willingly gives its consent to the desire of the American Government to see the laws voted by the Haitian legislative chambers which would complete the protocol and the proposed note. The Haitian Government notes with regret that your Government considers that the three proposals submitted to it are based on concepts which the American Government considers different from those which had been envisaged in 1934 and which are those on which the agreement of the American Government for the termination of American financial control had been based. I must not fail to remark, however, that these drafts which I have had the honor to submit to you are the only ones which permit the strict application of the texts of the agreement of 1934 as well as the 2% recognized as due the Bank by the Contract of July 1935. It is evident that the two Governments were not parties to the Contract of Sale of the National Bank of the Republic of Haiti signed July 8, 1935, but it remains true nevertheless that the conditions of this Contract were determined upon with the approbation and under the good offices of the American Government. The Haitian Government was therefore right to think that the precise stipulations in Article 13 of the Contract of July, 1935, could be considered as definite and all the more so since these same stipulations were reproduced in the drafts of 1934 decided upon between the Governments. Nevertheless the memorandum which Your Excellency has kindly submitted and which the Haitian Government has studied with greatest interest—a memorandum which shows, as your Government conceives it, the nature and extent of the control to be granted the Bank—implies necessarily the modification of the conditions agreed upon in 1934 and which appears in the Contract of Sale of the National Bank of the Republic of Haiti. The 2% which had

been foreseen as the Bank's commission is very evidently insufficient to take care of a budget which would necessitate an organization of the sort proposed by Your Excellency, and if such a plan were to be adopted it would be necessary either to increase the 2% directly or, as Your Excellency suggests, indirectly, by giving the Bank a guaranteed minimum commission which would greatly exceed the probable yield of a 2% commission.

The Haitian Government does not deny the friendly spirit with which the American Government has treated the different problems arising out of the liquidation of the Treaty of 1915.³⁴ It hopes the American Government on its side will realize the sincere desire which the Haitian Government manifests to give all possible appeasement to the bondholders of the loan of 1922. The Haitian Government believes that it is possible to guarantee entirely the rights of these bondholders by holding to the terms of the conditions agreed upon in 1934 and which have been accepted by the American Government. The proposals which it has formulated and which I have had the honor to submit to Your Excellency have as a basis these proposed agreements of 1934. The Haitian Government, if the American Government has modifications to propose to these projects, will be happy to examine them in the highest spirit of conciliation and it remains persuaded that a common examination of these projects will achieve a solution giving full satisfaction to both Governments.

Accept [etc.]

GEORGES N. LEGER

838.51/3348

The Secretary of State to the Chargé in Haiti (Finley)

No. 492

WASHINGTON, June 17, 1937.

SIR: The Department refers to Mr. Gordon's despatch No. 499 of June 2, transmitting a copy of a note from the Haitian Minister for Foreign Affairs dated May 31, 1937, which purported to answer the Legation's note and accompanying documents of December 21, 1936.

You are requested to call on the Haitian Minister for Foreign Affairs at your early convenience and to make certain observations which are set forth below in reply to the note of May 31, 1937, leaving an *aide-mémoire* of your remarks.

You may say that the Government of the United States has examined attentively the Minister's note of May 31, 1937, but regrets to say that in its opinion the statements of the Minister appear to indi-

³⁴ *Foreign Relations*, 1916, p. 328.

cate that the points of view of the two governments seem to be no closer together than was the case some months ago.

The Government of the United States does not feel that to attempt to reply point by point to the arguments raised by the Minister would be profitable to either government, although it cannot let pass unanswered the statement contained in the seventh paragraph of the Minister's note. The Government of the United States feels sure that upon mature reflection, the Minister will agree that the assertion of the Haitian Government that the new texts proposed by the Government of the United States "constitute an aggravation and an extension of the already large rights of control which the Haitian Government had agreed to give to the bondholders and which were agreed to by your Government" is far from "indisputable (*indiscutable*)."

The Government of the United States is convinced for its part that it should be possible without serious difficulty to elaborate a plan satisfactory to both governments for the termination of United States financial control in Haiti, based upon the documents which it has already submitted to the Haitian Government. More specifically, the Government of the United States desires to advance the earnest suggestion that upon Mr. de la Rue's return to Haiti in the immediate future his services be availed of by the Haitian Government to elaborate with the Minister for Foreign Affairs and for Finance a plan for the organization of the fiscal or Government side of the National Bank of the Republic of Haiti. The Government of the United States recalls in this connection that the Minister for Foreign Affairs and for Finance has himself several times advanced the opinion that such a course was the most logical one to follow, and Mr. de la Rue has on his part expressed his readiness to cooperate with Mr. Léger in every way possible to develop such a plan step by step, in the hope of reaching a solution satisfactory to both governments and adequately safeguarding the rights of the bondholders of the 1922 loans.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

838.51/3363 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, June 22, 1937—noon.
[Received 4:05 p. m.]

31. Department's air mail instruction June 17. The Department's observations with respect to the Haitian Government's note of May

31, 1937 were communicated to Leger this morning. He said that he was pleased that discussion of the details of the organization of the Government side of the bank could now proceed between de la Rue and himself. He thought something could be worked out. The points of view of the two Governments were not far apart and he stated very plainly that he does not consider the question of the cost of the organization as important as that of its kind. What he really wanted was physically to retain the services now performed by the fiscal representative's office in the Ministry of Finance where he thought they belonged. These services he believed could be Haitianized just as in the case of the Garde by duplicating personnel during the training period. He wished to see installed in the bank only such control officers as would protect the interests of the bondholders. Discussions with de la Rue would begin as soon as the latter returned unless of course there was some new prospect of a refunding loan in which case they would not be necessary.

Proceeding then to the question of acquisition of the possible loan he told me of Bogdan's prospective arrival today and repeated that the Haitian Government was under no obligation to Schroder but would of course examine any plan that Bogdan had to offer. He said he was not interested in German marks and he also made a point of saying that, following Bogdan's visit to France this summer, he thought the latter might propose some sort of scheme which would link up a loan with the question of the 1910 bonds. This, he said, he would not tolerate. The two were entirely separate propositions. He would keep me informed as to any developments which might take place.

Coming next to the French commercial convention he said that he personally through a third party and not on behalf of the Haitian Government had told the French that he might be willing to adjust the 1910 loan question on the basis of the payment of francs 10 million over a 15-year period.³⁵ I understood him to say that he would not go beyond that figure. The French were apparently holding up the convention because they did not think this adequate. He was very anxious on the other hand to conclude the convention because there were good prospects for a large coffee crop and because they would need the French market this year. In reply to my question he again said that while the conclusion of the convention was not explicitly bound up with the 1910 loan settlement, he naturally would feel a moral obligation in case the convention were signed to settle the 1910 question.

FINLEY

³⁵ See pp. 560 ff.

838.51/3368 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, July 6, 1937—11 a. m.

[Received 3 p. m.]

39. Following interviews he had yesterday with Vincent and Leger, De la Rue informed me that the object of his conversations had been to communicate to them Eberstadt's new proposal for a \$15,000,000 refunding and public works loan. The proposal was, he stated, that \$2,500,000 should be made available as soon as the loan could be prepared and approved by the Securities and Exchange Commission; another \$2,500,000 to be made available as soon as possible but within 90 days and the balance to be taken "after October 1, 1937". The price at which the bonds would be taken would be subject to discussion but Eberstadt would be given the right to handle the refunding operation. The latter would come to Haiti in the near future after he had been invited by the Haitian Government and after receiving assurances from the Haitian Government that it is not already pledged to do business with another firm.

De la Rue further stated that both Vincent and Leger have expressed a desire to have Eberstadt come to Haiti at the earliest possible date. Meanwhile, the conversations with regard to the protocol which were agreed upon in the Department on June 14 will, De la Rue states, be postponed.

I am forwarding by next air mail the text of De la Rue's letter to Leger on this subject.

Since this is an entirely new *démarche* concerning which the Legation has only the above information, will the Department kindly cable me its views.

FINLEY

838.51/3368 : Telegram

The Secretary of State to the Chargé in Haiti (Finley)

WASHINGTON, July 8, 1937—5 p. m.

24. Your 39, July 6, 11 a. m. De la Rue communicated Eberstadt's proposal to Duggan prior to sailing from New York.

The Government of the United States, which until a refunding of the 1922 loan is effected has certain financial obligations vis-à-vis the Haitian Government would appreciate being furnished, when available, with the complete details of this latest proposal. While the United States would as a friend feel constrained to lay certain observa-

tions before the Haitian Government if it believed the terms of the proposal unduly onerous, the ultimate decision as to acceptance or rejection is, of course, one which must be taken by the Haitian Government.

As the Haitian Government has been previously informed, this Government would, of course, be delighted if Haiti could obtain at this time a refunding loan on reasonable terms from responsible bankers which would retire the 1922 bonds and thus automatically abrogate the Protocol of 1919³⁶ and other existing financial agreements between the United States and Haiti. It cannot be overemphasized, however, that this Government is opposed to any proposal which either in fact or by implication might be construed as extending or prolonging the present responsibility of the United States as respects financial control or supervision in Haiti.

You are authorized in your discretion to bring the substance of the foregoing considerations to the attention of the Minister for Foreign Affairs. You should on that occasion inform him that while the Government is naturally anxious to proceed with the protocol at the earliest possible moment it is agreeable to a postponement of the conversations between Léger and de la Rue for the formulation of a concrete bank plan if such a postponement is desired by the Haitian Government.

HULL

838.51/3375 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, July 10, 1937—noon.

[Received 2:25 p. m.]

42. Department's 24, July 8, 5 p. m. The Department's views were communicated to Leger this morning. He said he had understood these views to be as I had indicated and that his Government and mine appeared to be in perfect agreement on this subject.

Regarding his conversations with De la Rue concerning the formulation of a bank plan, he said that in case nothing came of the Eberstadt proposal, he would immediately resume these conversations for he was genuinely anxious to reach an agreement regarding the termination of financial control.

FINLEY

³⁶ Signed October 3, 1919, *Foreign Relations*, 1919, vol. II, p. 347.

838.51/3382 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, July 17, 1937—10 a. m.

[Received 1:05 p. m.]

46. Legation's despatch 515 of July 7, and telegram 41, July 9, noon.³⁷ Eberstadt has since telegraphed De la Rue that he thought it would take him until about September 1, to push his preparatory work to the point where he could come down here with a fairly definite proposition. Leger feels that it is undesirable to wait that long before even beginning negotiations and accordingly he has sent another message to Eberstadt asking him to come down in the near future even if his proposition has not yet taken definite shape, emphasizing that it seems preferable that there should be discussion of the nature of the security contemplated for the proposed bond issue before Eberstadt's plans are further advanced.

GORDON

838.51/3400 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, July 30, 1937—11 a. m.

[Received 12:55 p. m.]

52. Legation's 46, July 17, 1 p. m. [10 a. m.]. Eberstadt has now informed Leger that the flotation by him and his associates of a re-funding and public works loan for Haiti would involve in all probability the nomination of a board of directors of the bank consisting of five members, two of whom would be nominated by the Haitian Government, two by the trustees of the loan and one "by a mutually acceptable agency of the United States Government". De la Rue understands that Eberstadt has the Federal Reserve Bank in mind as this mutually acceptable agency. Government collections and disbursements would of course be made through the bank.

Eberstadt told Leger that the attitude of his prospective associates is lukewarm and that he does not look for much success unless the guarantees can be substantially as stated above. He also stated that he did not see how he would be able to come to Haiti before early September.

³⁷ Neither printed.

Having in mind the Department's 24 of July 8, 5 p. m., the Legation would be glad to be informed how the Department would regard the nomination of a director of the bank by the Federal Reserve Bank or other American Government agency.

FINLEY

838.51/3400 : Telegram

The Secretary of State to the Chargé in Haiti (Finley)

WASHINGTON, August 2, 1937—4 p. m.

33. Your 52, July 30, 11 a. m. On July 28, in a conversation with the Chief of the Division of the American Republics, Eberstadt made essentially the same statements regarding the conditions under which he and his associates would undertake the flotation of a public works loan for Haiti which your telegram under reference reports he made to Leger.

Mr. Eberstadt was informed that it would be entirely contrary to the policy of this Government to have anything whatsoever to do with the appointment of the fifth member of the Board of Directors of the Bank or in any way assume any responsibilities in connection with the new loan.

If inquiry is made by the Haitian Minister for Foreign Affairs as to the attitude of this Government with regard to the Eberstadt proposal, you may make the same statement to him.

In concluding his conversation, Mr. Eberstadt said that there might be some other formula which could be worked out which would protect to the same degree the interests of the bondholders and that if such a formula were suggested he, of course, would be only too glad to accept. He stated, however, that he did not wish to recommend to his clients any loan that he himself did not feel was adequately safeguarded and he expressed great doubt as to the possibility of finding any other arrangement which would afford the same degree of protection as that which now exists under the 1922 loan.

HULL

838.51/3408 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, August 4, 1937—1 p. m.

[Received 3 : 30 p. m.]

56. Department's instruction 507, August 2.³⁸ I am quite certain that Leger, when he replied to Eberstadt was entirely unaware that

³⁸ Not printed; it transmitted a copy of a memorandum of conversation between the Chief of the Division of the American Republics and Mr. Eberstadt, reported in telegram No. 33, August 2, 4 p. m., *supra* (838.51/3407).

the latter proposes to have powers conferred on the fifth member of the bank board substantially identical with those now exercised by the fiscal representative. I am equally certain that he entertained no idea that the American Government would be willing to nominate the fifth member. What he probably had in mind was that the Federal Reserve Bank might, as I understand it recently did in Brazil, name a panel of experts from which the choice could be made or failing that that the Foreign Bondholders Association might do so.

It appears to me that the positions of the two parties to this affair are much farther apart than either realizes. De la Rue is hopeful that Eberstadt's next letter to Leger will make his position clearer and that meanwhile Lancaster and Dulles will have given him a clearer picture of Leger's position. He has written Lancaster.

FINLEY

838.51/3429b

The Chief of the Division of the American Republics (Duggan) to the Haitian Minister (Lescot)

WASHINGTON, August 7, 1937.

MY DEAR MR. MINISTER: In accordance with your request for a brief statement of the policy and attitude of this Government with respect to the matters which we have recently been discussing, I take pleasure in sending you herewith a brief memorandum which I hope is adequate for your purposes.

I am hopeful that prior to your departure from Washington further information will have been received from our Embassy in Paris with regard to the 1910 Haitian franc loan. If such information is received I shall, of course, communicate with you at once.

I am, my dear Mr. Lescot,
Very sincerely yours,

LAURENCE DUGGAN

[Enclosure]

The Department of State to the Haitian Legation

I. *Proposed Protocol Abrogating the Protocol of October 3, 1919, and the Accord of August 7, 1933.*

The Government of the United States, in harmony with its consistent policy of clearing up as rapidly as may be possible the vestiges of its special relationships with certain countries of the Caribbean area, is desirous of concluding a protocol with the Haitian Government which will liquidate official American financial control in Haiti, and will

abrogate the Protocol of October 3, 1919, and the Accord of August 7, 1933. Although equally desirous of recognizing as far as may be possible legitimate Haitian aspirations to obtain complete autonomous control over the collection and allocation of the revenues of the Republic, the Government of the United States, mindful of the responsibilities which it together with the Government of Haiti has assumed towards the holders of the bonds of the 1922 loan, feels that it would not be warranted in agreeing to a protocol whose terms did not provide adequate guarantees for the bondholders. Accordingly, the Government of the United States believes that a protocol with accompanying letter along the broad lines of that submitted to the Haitian Government on November 18, 1936, as amplified by a memorandum of the proposed organization of the National Bank of Haiti, submitted to the Haitian Government on December 23, 1936, represents approximately the minimum guarantees which would adequately safeguard the rights of the bondholders of the 1922 loan. It should be understood, however, that while the Government of the United States holds to the broad basis of the plan which had already been agreed upon between the two governments in 1934, it has no desire to insist rigidly upon the details of this plan.

II. *Proposed Refunding or Construction Loan to Haiti.*

The Government of the United States would be greatly pleased to see, as a most happy solution of the existing special relationship, a refunding loan to Haiti underwritten by a group of responsible bankers either in this country or elsewhere. While the terms of such a loan can be of no direct concern to this Government, which in any case must stand aloof, the United States would naturally be disappointed, as a sincere friend of Haiti and of the Haitian people, if such terms were unduly onerous or disadvantageous as respects Haiti or if they imply any possibility of future impairment of Haiti's sovereignty.

Accordingly, the Government of the United States feels that the decision whether the Haitian Government prefers to contract a smaller loan in the absence of a refunding loan and the terms upon which any loan might be obtained, are matters purely of concern to the Haitian Government.

As has been made clear on various occasions to the Haitian Government, the Government of the United States is unalterably opposed to any new arrangement which might extend or be construed as extending the present American financial control in Haiti. Therefore, the Government of the United States is unable, either directly or indirectly through one of the semi-autonomous organizations under control of this Government, to nominate any official who might serve in any capacity in connection with a future loan to Haiti.

III. *The 1910 Haitian Franc Loan.*

The Government of the United States was pleased, at the instance of the Government of Haiti, to exercise again its good offices with respect to the French Government in connection with the demand by a certain group of French bondholders for an additional settlement beyond that offered in 1922-23 to the holders of the 1910 Haitian franc loan. The Government of the United States has consistently endorsed the point of view set forth by the Haitian Government, that full and equitable settlement was tendered to the holders of the 1910 loan in 1922-23.

838.51/3408 : Telegram

The Secretary of State to the Chargé in Haiti (Finley)

WASHINGTON, August 9, 1937—4 p. m.

35. Your 56, August 4, 1 p. m. The recent consultation of the Brazilian Minister of Finance with the Secretary of the Treasury in which the latter agreed to supply such technical assistance as Brazil may care to avail itself of in connection with the organization of a new Brazilian central reserve bank offers no precedent for the proposal that the Federal Reserve Bank recommend the appointment or in any way participate in the selection of an American to serve on an agency which will exercise control over Haitian finances in the interests of holders of external bonds of the Haitian Government.

HULL

838.51/3418 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, August 10, 1937—11 a. m.

[Received 12:02 p. m.]

63. My telegram No. 62, August 9, 1 p. m.³⁹ De la Rue at Leger's request is again writing to Eberstadt in an endeavor to elucidate the viewpoint of the Haitian Government and to find out whether he is prepared to proceed on any other basis than that which he seems most unwittingly to have envisaged. Pending receipt of his reply Leger told De la Rue that he would prefer not to proceed with protocol negotiations.

FINLEY

³⁹ Not printed.

838.51/3483 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, November 16, 1937—1 p. m.

[Received 3:44 p. m.]

115. Personal for the Under Secretary of State from Mayer.⁴⁰

In a conversation Pixley⁴¹ had this morning with Leger the latter discussed in strict confidence the question of a French loan through Barclay's Bank. The Minister for Foreign Affairs gave Pixley the definite impression that he was momentarily expecting word from France that the situation there had reached such a point that he would be given full powers from the President of Haiti and would immediately return to the United States by air en route to France to sign the documents. The Minister for Foreign Affairs added that the only obstacle to the loan was fear in France of hostilities between Haiti and Santo Domingo.⁴²

At the same time Leger told Pixley that he had informed you in detail of this matter and that the Department approved.

As I am presenting my credentials on Thursday⁴³ and this French loan may be broached to me in conversation then or thereafter it would seem desirable for us to have your point of view with regard to this matter. [Mayer.]

FINLEY

838.51/3483 : Telegram

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

WASHINGTON, November 17, 1937—4 p. m.

59. Your 115, November 16, 1 p. m. Solely for your background information, the Department transmits to you the text of two telegrams received from the Embassy in Paris sent in reply to an instruction to obtain such information as might be possible with regard to the reported French negotiations for a loan to Haiti. The telegrams are as follows:

(Here quote 1602, November 13, 6 p. m., and 1617, November 17, 2 p. m., from Paris).⁴⁴

The contents of these telegrams have been made available to de la Rue who presumably will inform Pixley.

⁴⁰ Ferdinand L. Mayer, Appointed Minister to Haiti.

⁴¹ Rex A. Pixley, Deputy Fiscal Representative.

⁴² See pp. 132 ff.

⁴³ November 18.

⁴⁴ Telegrams not printed. Ambassador Bullitt reported inquiries at the French Treasury, Foreign Office, and Bank of France which indicated that neither the Government nor the Bank had been approached by the firm of Lajoinie in regard to the Haitian project. (838.51/3482, 3484)

When Leger informed me of the pending negotiations with French interests, I stated to him that the matter was one, of course, solely for determination by the Haitian Government; that I assumed, of course, that the Haitian Government would enter into no loan contract which could in any sense be construed as counter to the prior interests of United States bondholders, nor which would in any way involve political influence in Haiti on the part of European interests, nor which in a general sense would be prejudicial to the best interests of the Haitian people. I added that I knew of the repeated efforts made by the Haitian Government to obtain financial accommodation in the United States and that in view of the failure up to date of these efforts, I recognized the legitimate desire of the Government of Haiti to turn to other sources for such accommodation. I concluded by saying that I trusted that any negotiations which might be consummated would be satisfactory to the Haitian Government and to the best interests of the Haitian people.

HULL

838.51/3483 : Telegram*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, November 20, 1937—1 p. m.

61. Reference Department's 59, November 17, 4 p. m. De la Rue, who arrived here last night, states he has not communicated contents of Paris telegrams transmitted to you in Department's 59. You are authorized to show them to Pixley.

HULL

838.51/3483 : Telegram*The Secretary of State to the Minister in Haiti (Mayer)*

WASHINGTON, November 22, 1937—5 p. m.

62. De la Rue informs me that the financial situation in Haiti is becoming alarming and has been further aggravated by the recent drop in coffee prices which threatens to curtail almost entirely the exportation of coffee unless the price to the peasant cultivator can be increased.

He has been informed by Léger that the latter is not in favor of the proposed temporary reduction of 33 per cent in the coffee export duty since he is reluctant to change tax structure in view of negotiations for French loan which he believes should be brought to successful conclusion within 20 days. De la Rue feels that internal economic conditions can not continue without some stimulation of coffee trade for that long a period and that meanwhile Haiti's place in the American coffee market so laboriously gained may be endangered.

At his request and since I understand that Léger intends to defer for 2 weeks or more making inquiries through New York with respect to Lajoinie and his associates, I now authorize you to communicate orally and strictly confidentially to Léger the substance of the two telegrams from the Embassy in Paris contained in Department's 59, November 17, 4 p. m.

Please cable promptly such reaction as you may obtain from Léger.

HULL

838.51/3485 : Telegram

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

PORT-AU-PRINCE, November 22, 1937—3 p. m.

[Received 6:29 p. m.]

121. During conversation with the Minister for Foreign Affairs this morning I inquired regarding the progress of his loan negotiations. (Department's 59, November 17, 4 p. m.)

Leger said that he had explained the matter to the Department as fully as he knew at the time. He was glad, however, to give me the following further information which he had written to De la Rue and assumed had been communicated by the latter to you.

This new French loan idea originated in a visit here of a French engineer at the Entreprise Lajoinie who was introduced to Leger in a letter from "his good friend" the French Minister at Ciudad Trujillo recommending this engineer highly and saying that he had the backing of the French Foreign Office. This letter dated October 16 was shown to me by Leger. The matter then proceeded to a point of a firm offer being about to be sent to Leger when difficulties arose, according to him, through French apprehension of the Haitian-Dominican affair. Now, however, as I indicated later in this telegram this obstruction seems to be removed. (There seems to be a certain contradiction in the attitude of the Haitian Government in regard to the Haitian-Dominican affair and the fact that apparently this no longer is considered an obstacle to the French loan.)

The loan in the amount of some \$20,000,000 is to come from moneys in the possession of a semi-official French institution which originated after the war as a depository for certain funds. As there is no employment locally for these funds the French Government is glad to have them used for the present purpose and the French Foreign Office has approved the same. The issue price will be around 95 and the interest rate apparently quite satisfactory. Leger said nothing regarding the duration of the loan. As the French authorities do not wish to appear in the matter the money will be loaned in the first

instance to Barclay's Bank who will in turn loan the money either directly to the Haitian Government or through the *Entreprise Lajoinie*. Leger was a little vague about this point. There is no question of customs control which apparently had not been requested. The guarantee demanded by the French was a continuation of the National Bank of Haiti's present position with regard to Government funds. Leger felt that eventually some form of foreign overseeing would be requested in the bank on behalf of the creditors. This Leger hoped could be worked out by appointing an American, preferably De la Rue himself.

Leger added that he had recently received a cablegram from Paris that a firm offer had been mailed to him November 18. Upon its receipt (if it is satisfactory) he will at once fly to New York, meet De la Rue, apparently discuss the matter further with the Department, sail to France accompanied by De la Rue to settle and sign the loan contract.

Leger admitted that the matter seemed to him most extraordinary and miraculous. I indicated discreetly that his own prestige as well as that of his Government was involved in this affair (having in mind the Debalway [*Debachy*] affair)⁴⁵ and that I had not previously encountered French, or indeed any other, financiers in the role of Santa Claus. Leger agreed to all of this but still felt that remarkable as it was the loan was assured and that everything would work out beautifully. He thought that a loan at this time would be exceedingly helpful not only for Haitian economy but with regard to the Dominican affair.

MAYER

838.51/3492 : Telegram

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

PORT-AU-PRINCE, November 26, 1937—2 p. m.

[Received 4:56 p. m.]

126. Legation's 124, November 23, 3 p. m.⁴⁶ In a conversation Pixley has just had with Leger concerning the French loan the latter said that he had now received a telegram signed "Bellamy" from the principals in Paris stating that they were awaiting his arrival there to sign the contract. The principals presumably are the "fonds des bien privees" the semiofficial French institution mentioned in the fourth paragraph of my 121, November 22, 4 [3] p. m. According to Leger *Entreprise Lajoinie* is to have charge of public works construction and

⁴⁵ See *Foreign Relations*, 1935, vol. iv, pp. 667 ff.

⁴⁶ Not printed.

to collect six or seven percent commission on them; that there is no provision that materials must be bought in France and that the loan is in dollars. Leger further indicated to Pixley that his reason for wishing to keep the loan matter secret for the time being was in order to prevent the 1910 bondholders from learning of the loan as there is nothing in it to satisfy them and they might bring influence to bear on the Foreign Office to block it.

Leger further informed Pixley that he expected to receive on Sunday the letter said to have been mailed in Paris on November 18 (see second paragraph of my 124, November 23, 3 p. m.) and anticipated leaving by plane on Tuesday en route to France to be accompanied by De la Rue. While in the United States Leger would discuss the whole affair with the Department.

In order to have everything prepared Leger said that there was to be a Cabinet meeting this morning to approve the loan and to give Leger authority to go to Paris to sign the contract. Leger added that he would permit news of this meeting to leak out today in order to encourage public opinion and help divert it from the Dominican affair. Pixley indicated to Leger the danger of such action if the loan project should not eventuate but Leger thought that this was not a sufficient reason to change his proposed procedure with regard to the Cabinet meeting, et cetera.

Pixley understands that this famous letter of November 18 was mailed by Barclay's Bank in Paris.

We also understand that the engineer of the *Entreprise Lajoinie* with whom Leger dealt here and with whom he has been communicating in Paris is named Dauvin.

MAYER

838.51/3495 : Telegram

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

PORT-AU-PRINCE, November 29, 1937—10 a. m.

[Received 12:45 p. m.]

130. The Department's 64, November 27, 3 p. m.⁴⁷ Pixley has just learned from Leger that the letter of November 18 has arrived; that since receiving the letter Leger feels that "it is practically certain" that the loan will be worked out and that he is leaving by plane tomorrow night for New York en route to France. Leger has not as yet informed me of the arrival of the letter as he said he would do.

If Leger calls me over and discusses the matter, I feel it is only fair to give him the information contained in the Department's 64, Novem-

⁴⁷Not printed; it repeated telegram No. 1666, November 26, 4 p. m., from the Ambassador in France which reported further inquiries at the Foreign Office and Paris branch of Barclay's Bank, both of which disclaimed any knowledge of the proposed Haitian loan (838.51/3491).

ber 27, 3 p. m., in an effort to assist him in every proper way to an understanding of the situation before he takes the final step of leaving Haiti for France. On the other hand from what I now know I am inclined not to volunteer this further information. It seems to me that to do so might only be interpreted by Leger as an effort to block a loan which he appears to believe in his pocket, especially since similar accommodation has not been made to Haiti in the United States. I am all the more of this view because the Department and De la Rue will perhaps have even more definite information by the time Leger should reach the United States and they could then go into the matter with him if they so desired.

Would appreciate telephonic instructions if the Department desires me to act otherwise.

MAYER

838.51/3497 : Telegram

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

PORT-AU-PRINCE, November 30, 1937—1 p. m.

[Received 5:25 p. m.]

131. Legation's 130, November 29, 10 a. m. I have just seen Leger off on the plane to the United States. He called me over to the Foreign Office this morning to say that he had received his letter from Paris, which he did not show me, but which he said satisfied him that there was every probability that he could arrange the loan. He realized the personal risk he was taking but felt that there was justification for going. He would stop off at Washington to talk with the Department. I had the impression, however, that Leger is less certain about the loan, after receipt of the letter; that the matter of guarantees is still unsettled although Leger said he felt that this would work out all right.

I told Leger the substance of telegram No. 1666 of November 26, 4 p. m. from the Embassy in Paris to the Department.⁴⁸ I said that this further information had come in and it seemed only proper that he should have everything we had on the subject, not with any idea whatsoever of obstructing the loan but merely to be helpful. Incidentally, Leger confirmed that the French Chargé d'Affaires had spoken to him recently pursuant to instructions from the Foreign Office in Paris and presumably along the line indicated in the Embassy's telegram from Paris.

Leger said he entirely understood our position in the matter but was somewhat disturbed that our inquiries in Paris might get the matter noised about. I felt it necessary to remark at this juncture that as a matter of fact the object of his trip seemed to be rather generally

⁴⁸ See footnote 47, p. 558.

known here. For example a private individual had volunteered to us several days ago not only news of the loan project and his trip but actually the names of the negotiators. For the Department's strictly confidential information this Haitian claimed to have this direct from the President which I believe is correct. Furthermore, the British Minister yesterday told me that Leger himself had spoken to him recently about the loan and his trip to Paris.

All the inconsistencies and somewhat incredible circumstances surrounding the French loan negotiations inspire the feeling that we may not know the whole story either of the loan negotiations or of an ulterior motive which may also be involved. Indeed, British Minister indicated to me last night his feeling that Leger may be glad to escape from a political situation here in which he would not wish to be involved.

MAYER

838.51/3517: Telegram

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

PORT-AU-PRINCE, December 23, 1937—4 p. m.

[Received 5:21 p. m.]

164. President Vincent has received a telegram from Leger stating that in spite of the firm offer of the Biens Privees they are now unable to proceed with the loan. Leger states he has seen the President of the Council who promised to discuss the matter with the Minister for Finance with a view to the immediate conclusion of a loan and a commercial convention. Leger consequently has requested Vincent to hold off further reduction of the coffee export tax for 8 days, but Vincent has, apparently, telegraphed Leger that the situation here is grave and that Paris negotiations must be hastened.

MAYER

GOOD OFFICES OF THE UNITED STATES IN NEGOTIATIONS FOR A RENEWAL OF THE FRANCO-HAITIAN COMMERCIAL AGREEMENT; AND IN INDUCING FRANCE NOT TO INJECT THE 1910 LOAN MATTER THEREIN⁴⁹

838.61333/81

The Minister in Haiti (Gordon) to the Secretary of State

No. 407

PORT-AU-PRINCE, February 5, 1937.

[Received February 9.]

SIR: With reference to my despatch No. 406, of February 5, 1937,⁵⁰ transmitting and summarizing President Vincent's recent message to

⁴⁹ For previous correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 667 ff., and *ibid.*, 1936, vol. v, pp. 670 ff.

⁵⁰ Not printed.

the Legislature, I have the honor to call the Department's attention to the paragraphs in the message dealing with the question of markets for Haitian coffee.

After stating that during the past year the denunciation of the French treaty ⁵¹ had aroused serious apprehension and that Haitian exporters were pessimistic as to the possibility of disposing of the next coffee crop in the United States or on European markets other than the French, the President declares that the opinion of the Government, based on thorough inquiries, was that the opening of new markets for Haitian coffee could be realized—on condition of better cooperation from planters and exporters—and in conclusion he says: "This matter seems definitely to be working out to our advantage. In fact, we have a new market and the buying offers which our exporters are receiving greatly exceed our stocks."

The facts that up to date no notable progress has been made in the negotiations looking to a resumption of Franco-Haitian commercial relations and that French pressure for a settlement of the 1910 loan question ⁵² has, temporarily at least, abated, have of course constituted probative indications that President Vincent has felt sufficiently secure with respect to the disposal of this year's coffee crop to enable him to adopt a firm attitude towards France. Recalling, however, the many weeks during the Spring and early Summer of 1936 when the President was a prey to constant indecision concerning the possibilities for marketing his next coffee crop outside of France, and consequently concerning his policy towards that country—and the unremitting efforts necessary to keep him from giving way to pessimism and relapsing supinely into a policy of unreasonable dependence upon France, coupled with a yielding to unjustified demands on her part (see my despatches 241 of June 4,⁵³ 243 of June 8,⁵⁴ 254 of June 20, 1936 ⁵³)—I must admit that it is a source of much satisfaction to have, in this widely publicized message to the Legislature, a concrete and formal acknowledgment by the President (even if it is only such to those who know the whole background) that the course urged upon him has proven to be the wise one and wholly to the best interests of his country.

Respectfully yours,

GEORGE A. GORDON

⁵¹ Franco-Haitian commercial convention of April 12, 1930, denounced by France March 18, 1936; for text, see *British and Foreign State Papers*, vol. cxxxiii, p. 419.

⁵² For text of French gold loan of 1910, see *Le Moniteur, Journal Officiel de la République d'Haiti*, October 26, 1910, p. 606; for related correspondence, see *ante*, pp. 526 ff.

⁵³ Not printed.

⁵⁴ *Foreign Relations*, 1936, vol. v, p. 677.

638.5131/137 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 16, 1937—noon.

[Received 1:30 p. m.]

6. Department's telegraphic instruction 24, October 28, 7 p. m.⁵⁵ The Foreign Minister⁵⁶ told me this morning that negotiations for a renewal of the Franco-Haitian commercial treaty have now reached a more active and concrete stage.

Although the French Government has not officially stated that it would disjoin the 1910 loan question from treaty negotiations, the fact remains that last autumn the French Government declared in an official note that it would not resume negotiations for the conclusion of the commercial treaty unless and until the Haitian Government agreed to submit the 1910 claim to judicial or arbitral decision and that now, without anything whatever being said concerning a settlement of the 1910 loan claim, treaty negotiations are actively proceeding.

Amplifying despatch by airmail.

GORDON

638.5131/139 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 24, 1937—noon.

[Received 2:40 p. m.]

10. My despatch No. 447 of March 16.⁵⁷ Having been informed that negotiations with the French are now rapidly coming to a head and that over and above the additional non-specialty articles referred to on page 3 of my said despatch it is proposed to include additional products in the *avenant*, I thought it well this morning to see the Foreign Minister, verify this information and remind him of the position of our Government as declared to the Haitian Government in 1935 when Haiti was negotiating with France⁵⁸ for the resumption of the commercial treaty and the *avenant* of 1934.⁵⁹

When I called upon the Foreign Minister he verified the information above set forth and I thereupon read him the pithy passages of the Department's telegraphic instruction No. 21 of June 20, 1935.⁶⁰

⁵⁵ *Foreign Relations*, 1936, vol. v, p. 681.

⁵⁶ Georges Léger.

⁵⁷ Not printed.

⁵⁸ See *Foreign Relations*, 1935, vol. iv, pp. 650 ff.

⁵⁹ Signed March 10, 1934; for text, see *Le Moniteur, Journal Officiel de la République d'Haiti*, April 23, 1934, p. 255. The *avenant* extended the Franco-Haitian commercial convention of April 12, 1930.

⁶⁰ *Foreign Relations*, 1935, vol. iv, p. 661.

I told him that I wished our construction of the most-favored-nation principle to be clearly understood and that I should like equally clearly to understand that his Government agreed with this construction.

After a brief discussion he stated that wherever by treaty Haiti had granted most-favored-nation treatment she intended to stand by it fully and to do nothing to evade the obligations thus assumed.

Amplifying despatch by air mail tomorrow.

GORDON

638.5131/142 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, April 29, 1937—1 p. m.

[Received 3:15 p. m.]

14. My despatches 453 of March 24, and 465 of April 7.⁶¹ The Foreign Minister informed me today that exchange of notes ⁶² effecting *modus vivendi* pending consummation of Franco-Haitian commercial treaty negotiations had just been signed. The *modus vivendi* gives Haiti a quota of approximately 37,000 sacks of coffee to be shipped from here between now and September 1; the French get straight minimum tariff treatment and there is no mention of an *avenant* or of specific tariff reductions for additional non-specialty articles.

Amplifying despatch by air mail.

GORDON

638.5131/143

The Minister in Haiti (Gordon) to the Secretary of State

No. 482

PORT-AU-PRINCE, April 29, 1937.

[Received May 4.]

SIR: I have the honor to amplify as follows my telegram No. 14 of this date.

I called upon the Foreign Minister this morning to inquire concerning Franco-Haitian commercial treaty negotiations, stating that I had been informed that more conciliatory instructions had lately been received by the French Minister, and that consequently negotiations were now going ahead on a basis more favorable to Haiti; that I had also been informed that a *modus vivendi* pending the consummation of these negotiations would probably be signed today.

M. Léger confirmed this information and stated that as a result of an instruction received yesterday by the French Minister clearing

⁶¹ Neither printed.

⁶² Signed April 28, 1937; for text, see France, *Journal Officiel*, May 15, 1937, p. 5293.

up the last point at issue, an exchange of notes had been signed today effecting the *modus vivendi* in question, according to the terms of which France gives Haiti a quota of approximately 37,000 sacks of coffee to be shipped from here between now and September 1,—the original French proposal for a Haitian coffee quota was predicated upon Haitian coffee stocks in Havre, which of course was not of much interest to the Haitian government. The French receive straight minimum tariff treatment, and in the exchange of notes there is no mention of an *avenant* or of specific tariff reductions for additional non-specialty articles (see my despatches Nos. 447 of March 16 and 453 of March 24⁶³).

The terms of the *modus vivendi* will be published in an official communiqué to be issued this afternoon.

M. Léger further informed me that the Haitian and French governments are now quite close together on all important points of the forthcoming commercial agreement, though he anticipates that the treaty will not actually be signed for a month or more because, he said, if he might speak confidentially, "the French are such terrible skinflints (*grippe-sous*)".

The basis of the new treaty will be a Haitian coffee quota of some 150,000 sacks, with an additional approximately 6,250 sacks for every one million francs worth of French imports into Haiti above a minimum importation by Haiti of ten million francs worth of French goods annually. In this connection Léger said that as Haiti had practically never imported less than ten million francs worth of French goods annually, even when the franc was around 15 to the dollar, he thought there was little chance of this amount of imports proving artificial—i. e., more than the Haitians needed to, or normally would, import—now that the franc was getting nearer to 25 to the dollar.

Another point on which he had had trouble with the French was with respect to Haiti's purchases in France of material for public services. In the earlier stages of the negotiations the French had tried to obligate Haiti to purchase nearly ten million francs of such material annually, which Léger had flatly refused; negotiations now concern a figure of below two million francs annually.

In reply to my question as to what he proposed to do concerning the percentage of coffee to be shipped to France in French bottoms, Léger replied that in this connection, as well as with respect to the question of Haitian purchases of French coffee sacks, he did not feel that he could insist on less than the French had had by the exchange of notes and so called gentlemen's agreement of 1935 (restoring the lapsed treaty of 1930 and *avenant* of 1934), but that he had not agreed to anything above those quantities, and he felt that the French would

⁶³ Neither printed.

be satisfied therewith. I may parenthetically observe here that I do not see why M. Léger should not attempt to get better terms at least with respect to the purchase of French coffee sacks, inasmuch as I understand that the local coffee merchants have been very dissatisfied with this provision of the 1935 exchange of notes, feeling that the price of French jute coffee sacks is much too high.

Turning to the question of the French 1910 loan claim, Léger recalled that in one of our first conversations after he came into office he had told me that while he would not consent to submit this claim to arbitration or to the Permanent Court, or to make any substantial compromise payment, he would make a "symbolical" payment if that would dispose of the matter (see my telegram No. 46 of October 27, 1936⁶⁴). He said he wished now to tell me a little more fully what he had had in mind. The interest collected on 1910 loan bonds of holders who had refused to take paper francs for their holdings amounted to some \$521,000. Léger's idea was to pay ten million francs—approximately \$448,000 at present rates of exchange—out of this fund to French claimants if this would dispose of the case once and for all. He felt that a settlement of this nature would be the only kind of an arrangement which would not admit the principle that the Haitians were obligated to pay the 1910 loan in gold.

He had not made such a proposal to the French Minister here, but he had let him know that certain Frenchmen interested in the claim had proposed such a scheme and that he, Léger, did not disapprove thereof, so that if the French Government wished to propose such a measure to him as a way of settling the 1910 claim he would be disposed to agree thereto; the French Government, through its Minister here, had replied that any such idea was entirely unacceptable. However, said Léger, the French had abandoned their last year's position that they would refuse to proceed with negotiations for a new treaty until the Haitian Government had made a concrete step toward settlement of the 1910 claim, and had proceeded with negotiations which now were nearing consummation; consequently Léger said that he wouldn't be surprised if eventually the French did agree to such a proposition. Even if they did, Léger concluded, he said he had made it clear that the Haitian treasury at present had no cash to pay even this relatively small amount, and he did not intend to do more by way of covering this obligation, if it were incurred, than to give five or ten year bonds carrying 4% interest.

My final comment on the above would be, first that I do not consider that Léger's argument that a settlement of this nature would not constitute an admission of the claim of principle that the 1910 bonds are payable in gold, is at all convincing; and, secondly, that Léger's

⁶⁴ *Foreign Relations*, 1936, vol. v, p. 680.

other argument stops far short of its logical conclusion: i. e., if the French, after very categorically stating that they would not, have proceeded with negotiations for a commercial treaty without the Haitians taking any steps whatsoever towards settling the 1910 claim, it seems clearly to mean that the French made their bluff and it was called, and that therefore all the Haitians have to do is sit tight in confident expectation that the French will not be likely to venture the same bluff a second time. I understand that the 1910 bonds continue to come in steadily so that in the near future those still outstanding and represented by active claimants of gold payment will total a relatively small amount. M. Léger of course is equally aware of this, so that it would appear that he is prepared to give away something for nothing—at least as far as the Haitian Government is concerned.

Respectfully yours,

GEORGE A. GORDON

638.5131/149

The Minister in Haiti (Gordon) to the Secretary of State

No. 498

PORT-AU-PRINCE, June 1, 1937.

[Received June 4.]

SIR: With reference to my despatch No. 482 of April 29, dealing with Franco-Haitian commercial relations, I have the honor to report that during a call on the Foreign Minister this morning I asked him how the treaty negotiations were coming along and he said that whereas the last time he had spoken to me he did not think a treaty could be signed until towards the end of August, things had developed quicker than he had anticipated, and he now expects to sign up sometime in June. In fact he said that he and the French Minister had already drafted a treaty and had sent it to Paris for approval.

I then asked him if he still felt like giving away some money unnecessarily on the 1910 loan claim. Léger said he did not think it was entirely unnecessarily, to which I replied that when I last spoke to him I understood him to say he had made no commitments. Léger said that was true in that he had agreed to nothing on paper and that he had only told the French that if he did settle the claim it would only be on the basis mentioned in my despatch under reference. Léger said that the French were still saying that such a basis was unsatisfactory, but that they had by no means given up the idea of trying to get something out of this claim; only yesterday, he said, in haggling over the price of jute coffee sacks which the Haitians will agree to buy under the new treaty (as they did in the former treaty),

the French had advanced as a counter-proposition to one of Léger's propositions that the Haitians should agree to pay one thousand francs a bond for all bonds still outstanding.

Léger said that while he still would tell me that technically the signing of the treaty and a settlement of the 1910 claim were not linked up, and while, as stated in the preceding paragraph, the French still declared that they would not accept what Léger said would be the only possible basis for settlement, nevertheless he had given the French every reason to think that they could have a settlement on his basis when they wanted it, and he had to admit that he was at least under a moral obligation to make a settlement of that kind. So much so, he added, that if he were now to tell the French that he would not settle on any basis he was sure they would refuse to sign a commercial treaty.

I asked him if he did not really feel that what had compelled the French to negotiate for the renewal of the trade treaty was their own self-interest and the fact that the Haitians had for the first time in history demonstrated their independence of the French coffee market. In other words did he not believe that the Haitians had called the French bluff and only had to sit tight to avoid giving away something for nothing. Léger had no answer to make except to say that perhaps this was so, but he still felt that he would not get the treaty if he announced a refusal to settle, and he thought he would be acting in bad faith if he succeeded in getting the treaty signed and then turned around and refused to make any settlement of the claim.

I said that perhaps I was being more Catholic than the Pope, but that as long as the Haitians had spent the interest fund, whose equivalent Léger was prepared to pay out in 4% bonds, it irked me to see the Haitian Government taking this amount out of its treasury when there is no necessity to do so. I recalled to him that under the Agreement of August 7, 1933,⁶⁵ we had an interest in such a proposed increase of the public debt. Léger said that he realized that, but that he had not supposed that our Government would object to an issue of bonds of this nature. He said that if there was any chance of our Government objecting he hoped that the question might be examined at its earliest convenience, and that the Legation would inform him of our Government's attitude so that he would know just where he stood. I told him that I would be glad to take the matter up when I arrived in the Department next week, and he said he would be grateful if I would do so.

Respectfully yours,

GEORGE A. GORDON

⁶⁵ *Foreign Relations*, 1933, vol. v, p. 755.

838.51/3355

The Chargé in Haiti (Finley) to the Secretary of State

No. 503

PORT-AU-PRINCE, June 12, 1937.

[Received June 15.]

SIR: I have the honor to report that I have only today received from the Fiscal Representative's Office copies of correspondence which has recently taken place with regard to a case in Paris in which one, Moulin, appointed a sequestrator by a French court has been directed by that court to present five hundred 1910 Haitian bonds to the Banque de l'Union Parisienne for redemption in depreciated francs under a reserve that a future claim may be lodged for the difference between that value and the value of the bonds on a gold basis. The Fiscal Representative's Office, as the Department will observe from the enclosed copies of the correspondence exchanged,⁶⁷ brought this matter to the attention of the Secretary of State for Finance who, in his reply of June 7, 1937, reaffirmed the position taken by the Haitian Government in the Cahin case (see this Legation's telegram 136 of December 9, 12 noon 1933,⁶⁷ and subsequent correspondence) that: "The Haitian Government perceives no reason to modify the original arrangement made for the advance redemption of the bonds of the 5% 1910 loan of the Republic of Haiti and under which the bonds have been presented for redemption during the last ten years, and continue to be presented . . ." ⁶⁸ The Secretary of State for Finance has accordingly authorized the Fiscal Representative's Office to telegraph as follows to Mr. Hartford Beaumont of the firm of Shearman and Sterling in New York, lawyers for the National City Bank:

"Referring to new presentation Haitian 1910 bonds for encashment in depreciated French Francs under reserve of future claim for balance gold Francs Haitian Government does not feel it can depart from position set forth in letters dated July 3, 1933 to City Bank New York and Banque de l'Union Parisienne Paris to wit that Government sees no reason to modify arrangements originally made for redemption stop Accordingly City Bank France should instruct Banque de l'Union Parisienne to refuse payment under such reserve."

The Department's particular attention is invited to the statement contained in Mr. Beaumont's telegram to the Fiscal Representative dated June 5, 1937,⁶⁷ wherein he gives his opinion that the refusal of the National City Bank in Paris to redeem these bonds under the specified reserve may result in the attachment of the Bank's account with the Banque of France as happened in the Cahin matter in 1933.

⁶⁷ Not printed.

⁶⁸ Omission indicated in the original.

Mr. Beaumont goes on, however, to say that he presumes that the National City Bank could have this attachment vacated.

Respectfully yours,

HAROLD D. FINLEY

838.51/3365a

The Department of State to the Haitian Legation

MEMORANDUM

The Government of the United States has learned that the Haitian Government has under serious consideration the offer of a further settlement of certain alleged claims advanced by the holders of the outstanding bonds of the 1910 Haitian loan, in addition to the just and equitable payment offered to all bondholders of this loan at the time that the 1922 loans⁶⁹ were floated.

It will be recalled that the Haitian Government has for many years consistently maintained that the 1910 loan contract and the bonds themselves did not stipulate payment in "gold" French francs, and that in the phrase "Haitian 5 percent gold loan of 1910" the word "gold" merely referred to the security for the loan which was stipulated in the contracts and the bonds as based upon the collection of one dollar United States gold for every 100 pounds of exported coffee and fifteen percent special surtax in United States gold on the imports created by the law of August 20, 1909.

The Government of the United States on its part has likewise consistently sustained the Haitian position that the service of the 1910 loan was not payable in gold francs, and as the Haitian Government is well aware, the Government of the United States has on numerous occasions in the past, and as recently as 1934 and 1935,⁷⁰ lent its active good offices to the Haitian Government, when requested so to do by the Haitian Government, in making representations to the French Government on behalf of this position.

The Haitian Government will recall that in 1922 the United States underwriters of the loan to Haiti issued that year stipulated as a condition precedent to underwriting the loan that all outstanding Haitian loans should be retired. More specifically, the bankers stated that they could not approve the new loan unless they received assurances that the lien of the bonds of the 1910 loan upon Haitian revenues would be discharged by their call for redemption by the Haitian Government

⁶⁹ 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 (in French and English), see *Le Moniteur, Journal Officiel de la République d'Haiti*, October 30, 1922, pp. 533 and 537. For correspondence relating to the loan, see *Foreign Relations*, 1922, vol. II, pp. 472 ff.

⁷⁰ See *ibid.*, 1935, vol. IV, pp. 650 ff and 667 ff.

and the tender of the amount of the principal and interest thereof in French francs then in ordinary use and circulation. These assurances were given by the Department of State after consultation with the Haitian Government on November 22, 1922.

The Government of the United States is unaware of any subsequent developments in law or equity which would warrant an alteration of the attitude of the Haitian Government or of this Government towards the settlement of the 1910 loan. The Government of the United States is reluctant to believe, therefore, that the Haitian Government should so completely reverse its consistently maintained policy as now to be considering a further settlement with the intransigent holders of the outstanding bonds of the 1910 loan.

If the Haitian Government inclines to the view that a settlement on the outstanding bonds might create good will in French official and financial circles, it may be pointed out that the former holders of the bonds of the 1910 loan who accepted in good faith the just and equitable settlement offered them, would appear to have as good a right in equity to an additional settlement as have the holders of the outstanding bonds. It seems probable that far from disposing of the 1910 loan question the offer of a settlement when made, may cause a renewal of agitation in France for a settlement of the entire loan, and thus nullify any good will engendered by the restricted offer of payment.

It seems scarcely necessary to remind the Haitian Government that French investors who hold obligations of many other loans, including the Dawes and Young loans⁷¹ and various international issues floated under the auspices of the League of Nations, whose contracts provide for payment in "gold" of a fixed weight and fineness, have accepted payment in depreciated paper francs.

The Government of the United States wishes to remind the Haitian Government that while the 1910 contract and bonds did not contain any clause stipulating payment in gold, the 1922 loan contracts and bonds all contained very carefully worded gold clauses. Notwithstanding these last-named carefully worded "gold" clauses, the service of the 1922 loans both as respects interest and amortization has, following the devaluation of the dollar in 1933, been fulfilled in devalued dollars. The United States Government has in existing circumstances no intention of supporting any claim on the part of its citizens for service either as to interest or amortization of the 1922 bonds in United States dollars of the weight and fineness specified

⁷¹ For the Dawes Plan, see British Cmd. 2105 (1924) : *Reports of the Expert Committees Appointed by the Reparations Commission*; for the Young Plan, see British Cmd. 3343 (1929) : *Report of the Committee of Experts on Reparations*.

at the time that the 1922 loan contracts were made valid. Moreover, it does not appear that so far the bondholders of the 1922 loan have seriously questioned the action of the Haitian Government in maintaining the service of the loan by payments in the present United States dollar.

It will be obvious to the Haitian Government, however, should a special further settlement be offered to the holders of the outstanding bonds of the 1910 loan, and no corresponding additional settlement be offered to holders of the bonds of the Haitian 1922 issue, that the charge of discrimination in favor of the holders of the French loan probably would be raised by the holders of the bonds of the 1922 loan.

WASHINGTON, [June 22, 1937.]

838.51/3367

The Chargé in Haiti (Finley) to the Secretary of State

No. 511

PORT-AU-PRINCE, June 26, 1937.

[Received June 29.]

SIR: I have the honor to report that during my visit to the Foreign Office yesterday, when another matter was discussed, Minister Léger took occasion to raise the question of the 1910 bonds. He said he had just received the Department's memorandum on this subject from M. Lescot.⁷² Since I had not yet received a copy of this memorandum, M. Léger permitted me to read the original he had received.

The Minister then said that he wished to discuss this question somewhat at length, and that he would instruct Lescot what reply should be made. Meanwhile he wished to tell me frankly what his views are. He said that when he assumed office last October the question of the disposal of the 1936 coffee crop was of pressing importance. He for one was rather pessimistic as to the possibility of selling enough Haitian coffee in the United States to compensate for the loss of the French market following the renunciation of the French commercial convention. Four days after he had taken office he had had a long conversation with Minister Gordon on this subject (see Legation's telegram No. 46, October 27, 1 p. m., 1936⁷³) and he had asked the Minister what he thought the Department could do to aid Haiti vis-à-vis the French. Mr. Gordon, he said, had referred this inquiry to the Department, and that after several days the reply had come

⁷² Elie Lescot, Haitian Minister in the United States.

⁷³ *Foreign Relations*, 1936, vol. v, p. 680.

back that the Department felt that it had done just about all it could in this direction at that time.

Note. I am unable to find out how the Foreign Minister received this impression, for the Department's telegram No. 24, October 28, 7 p. m., 1936,¹⁴ indicated that "it would be inclined to consider extending its good offices further on behalf of the Haitian Government vis-à-vis the French Government if the French demands should prove unreasonable or unduly exigent".

M. Léger then went on to say that he understood at this time that Haiti would have to tackle this problem unassisted by Washington. He felt then as he does now that the French bondholders have no legal claim against Haiti, and neither then nor now does he have any sentimental or other reason which would influence him to pay them one franc. Money was too hard to come by these days.

But he did as Foreign Minister have to find ways and means of disposing of Haiti's coffee crop, and in looking around for some way to appease the French it occurred to him that something more than \$500,000 had been received by the Haitian Government as interest on the money which the French bondholders had declined to accept in depreciated francs. Since the American Government felt unable to assist him, could he not find a way to appease the French by a token payment of this interest amounting to about \$500,000 or in terms of francs, Frs. 10,000,000? It was true that this money was not available in cash to the Haitian Government since this interest had been currently considered an ordinary revenue of the Government and only a small amount remained available. His idea, therefore, providing the French were found to be receptive, was to issue bonds for this amount bearing 4% interest and payable in 15 years which might be turned over to the French Government for distribution as it saw fit.

In order not to compromise himself with the French, he determined to sound out the French Minister through the intermediary of M. Lespinasse, President of the French Chamber of Commerce in Port-au-Prince. He asked M. Lespinasse to find an occasion to talk with M. de Lens, French Minister to Haiti, and incidentally and casually to inquire whether the Minister thought that Frs. 10,000,000 payable in 15 years would satisfy the bondholders of the French Government and thus put an end to this thorny question. The French Minister, acting upon this inquiry, referred the matter to his Government but received no reply thereto.

In due course, however, M. de Lens was authorized by his Government to open new negotiations for a commercial convention. Nothing was said as these negotiations proceeded with regard to the Frs. 10,000,000 settlement, and he, M. Léger, took this to mean that for all

¹⁴ *Foreign Relations*, 1936, vol v, p. 681.

practical purposes the French had accepted this indirect offer and so he went on to conclude the *modus vivendi* and later to draft the new commercial convention. The latter is now practically in its final form and ready for signature.

However, when it came time to sign the convention, the French Government proposed that this conclusion be accompanied by a settlement of the 1910 question on the basis of Frs. 1,000, per bond or approximately Frs. 20,000,000 in all. This was double what the Minister had offered indirectly. M. Léger said that he called in M. de Lens and told him in so many words that his Government could "*aller au diable*"; if he decided to give them anything he would not give them one franc more than Frs. 10,000,000. There the matter apparently rests and the French are showing no haste in concluding the convention. The French Commercial Attaché has left for other parts and the French Minister to Haiti has retired to Kenscoff.

Meanwhile, Léger said that the 1937 coffee crop bids fair to be a large one. While American purchases of Haiti's coffee continue to be satisfactory, they are not yet large enough to warrant the belief that Haiti can dispense with the French market during the coming season. Moreover, it appears that the prices paid for Haitian coffee in the French market are somewhat greater than those paid in the United States. He therefore feels he must have this convention concluded as soon as possible. At this point the Foreign Minister again pointed out that he had never admitted the legality of the French claim against Haiti; that Haiti had no legal obligation to pay them anything; and he did not want to pay them anything. In order to settle the perennial difficulty, however, he had told them indirectly that he might be willing to settle for Frs. 10,000,000 if that would put an end to the matter; accordingly, if the French signed the commercial convention, he would feel morally bound to pay this sum. In no case would he pay them more.

M. Léger then asked me to put these views before my Government and inquire whether the Department now felt that it could use its good offices with the French Government to help Haiti obtain its objective in the French coffee market. He pointed out that the Haitian Government could not increase its public debt without the approval of the United States; also that this question of the 1910 bonds had had its origin during our Occupation and he felt that Haiti ought to receive our help in lifting this iron from the fire. He said in terminating the conversation that he intends to call in M. de Lens and let him read the Department's memorandum.

I told M. Léger that I had already reported the attitude of the Haitian Government on this subject in so far as he had made it clear to me, and that I would again be glad upon his request to amplify what had already been sent to the Department.

In order to give the Department a clear picture of the present status of the 1910 bond account in New York, I have asked the Assistant Fiscal Representative ⁷⁵ to give me an inclusive memorandum which he has promised to do next week. Meanwhile, I enclose a statement ⁷⁶ showing the rate at which these bonds have been redeemed from January, 1935 through April 1937.

During our conversation yesterday M. Léger expressed himself as being angry with Bogdan ⁷⁷ and his associates in Paris for having entered into any discussion with the French Bondholders Council regarding this question. He said that Bogdan had no authorization from the Haitian Government to do this, and that experience has shown in the past that the 1910 bonds are redeemed at a relatively slower rate following any such hair-brained discussion as may have gone on in Paris this summer.

Respectfully yours,

HAROLD D. FINLEY

838.51/8406

Memorandum by the Under Secretary of State (Welles) to the Chief of the Division of the American Republics (Duggan)

[WASHINGTON,] July 7, 1937.

MR. DUGGAN: The Minister of Haiti left here this morning the attached memorandum ⁷⁸ replying to our memorandum of June 22.

Confidentially, the Minister expressed to me the hope that the good offices of the United States might once more be exercised in behalf of Haiti with the Government of France in order that the French Government would give Haiti direct assurances that no obstacle would be placed in the way of Haiti selling to France that portion of her coffee crop which she cannot market in the United States and which customarily is purchased by French importers and, second, that the French Government would likewise agree to regard as liquidated this long standing controversy over the 1910 bond payments.

The Minister said that he thought the arrangement which was now being discussed between Haiti and France with regard to some compensation to the holders of the 1910 bonds was in the highest degree prejudicial to Haiti and would only open the door to further attempts on the part of the French bondholders for additional compensation in the future and was entirely unnecessary and required neither in law nor in equity.

⁷⁵ Rex A. Pixley.

⁷⁶ Not printed.

⁷⁷ Norbert A. Bogdan, Vice President of the J. Henry Schroder Banking Corporation.

⁷⁸ *Infra*.

I told the Minister that we would be very glad once more informally to approach the French Government with a view to utilizing our good offices in behalf of Haiti but that of course I could give him no assurance at all that these steps would meet with any success.

S[UMNER] W[ELLES]

838.51/3406

The Haitian Legation to the Department of State

MEMORANDUM

[Translation]

In reply to the Memorandum of June 22nd last, relative to the claim of the holders of the 1910 loan, the Haitian Government is happy to be able to dissipate the uneasiness which the United States Government appears to feel with respect to its attitude towards the claim of the said holders.

In fact, the Haitian Government is not conducting any negotiations with France that would imply the abandonment of the thesis which the Republic of Haiti, in full accord on this point with the Government of the United States, has always firmly maintained, that is, that the loan contract of 1910 does not involve any obligation to repay anything but paper francs.

The Haitian Government is just as much aware as the United States Government of the danger there would be in acknowledging the principle of a debt in gold francs, and it does not hesitate to give formal assurance that it will never acknowledge such an obligation against it.

The United States Government has been good enough to recall the good offices it has rendered the Haitian Government in the past, in the controversies on that subject that have existed. The Haitian Government highly appreciates this friendly attitude of the United States Government, and it does not fail to recognize either the scope of the assurances given the bankers who financed the 1922 loan. However, despite those good offices, it is undeniable that a serious controversy exists between the French Government and the Haitian Government concerning the 1910 loan. This controversy has had the consequence of leading France to denounce the treaty of commerce which bound her with the Republic of Haiti, which has provoked, as a measure of reprisal, the application of the maximum Haitian customs tariff to French goods and has resulted, in fact, in the almost complete breaking off of trade relations between the two countries.

The Haitian Government believes it should emphasize that the normal flow of the coffee crop is at the basis of the economic and

fiscal life of the Republic of Haiti. Great efforts, crowned with a certain amount of success, have been made to introduce Haitian coffee into the United States market. It is the intention of the Haitian Government to continue these efforts and to neglect nothing, in order to win an advantageous position for the Haitian product in the United States.

Nevertheless, despite the efforts just spoken of, the United States market absorbed only the quantity of about fifty thousand sacks of Haitian coffee during the crop year 1936-1937 and at prices which, on the whole, have been a little below those given by Havre. On the other hand, despite the denouncement of the Franco-Haitian Convention, Havre was the largest purchaser of Haitian coffee during the last crop year. Such purchases have doubtless been made because of the hope which the trade of Havre had that a prompt solution would be found for the difficulties between France and Haiti. Those hopes have not been realized. The result is that a large part of the coffee purchased during the last crop year is still in stock in Havre warehouses. It is certain that if no agreement is reached the Republic of Haiti cannot count on purchases by Havre for the coming crop year and, consequently, that the Republic of Haiti will run the two-fold risk of being unable, on the one hand, to count on the Havre market for the 1937-1938 crop year and, on the other hand, of seeing its French customers form the fixed habit of buying coffees of other origin.

For another thing, it is reported that the 1937-1938 crop is to be unusually large. But nothing indicates that the United States market will absorb the coffee coming from the new crop in a larger amount than last year. There is also to be pointed out the considerable drop in profit that would result for the Haitian trade by the loss of the French market; in fact, while New York generally pays only the Santos price, or a price even below Santos, for Haitian coffee, the Havre market has, on the contrary, always given Haitian coffee a premium over Santos.

The Haitian Government believes that the United States Government will agree that the circumstances just pointed out constitute a *de facto* situation which amply justifies the efforts it believes it must make to put an end to the difficulties with France.

The United States Government will likewise consider that it is not possible for the Haitian Government, responsible to the Haitian people for the management of its affairs, to remain indifferent to the danger which menaces the general Haitian economy. The Haitian Government found itself under all the greater obligation to seek for a solution, in that it had been informed in October 1936 by the United States Minister at Port-au-Prince that his Government did not think

that it was possible for it to make any new effort, for the time being, to aid in settling the 1910 matter.

Negotiations have therefore been conducted with the French Government. These negotiations have not yet led to any definitive arrangement. The basis considered does not impair in any way the juridical position assumed in the past and which the Republic of Haiti continues to assume. The Haitian Government has taken into consideration the fact that from the approximately 25,000,000 frs. representing the sum of the 1910 obligations not presented for payment, it has, from 1923 to this date, received interest exceeding the amount of \$500,000. The Haitian Government thinks that it might agree to pay to the holders of the 1910 [loan],⁷⁹ through the French Government, a sum representing nearly the total of that interest. In order to avoid any embarrassment to the Treasury of the Republic of Haiti, the payment of 10,000,000.00 francs has been envisaged (which, at the current rate, represents a little less than the \$500,000 collected), by means of an emission of obligations payable in fifteen years and bearing 4 percent interest. The Haitian Government wishes to dwell upon the fact that such an arrangement, if concluded, would not impair in any way its juridical position with respect to repayment in paper francs, would only return to the holders of the 1910 [obligations] money which the Haitian Government would never have received if the bonds had been presented for redemption and, if the terms are considered, would constitute a very slight burden on the Republic of Haiti, particularly in view of the advantages the national economy derives from the Havre market. The drop in profits which would result from the loss of the Havre market for as large a crop as that which may be expected for 1937-1938, would probably exceed for that one year the total amount of the compensation to be given the holders of 1910 [obligations].

Moreover, the Haitian Government can hardly see in what way such an arrangement could injure the rights of the holders of the 1922 loan. The Haitian Government highly appreciates the assurance that the United States Government has just been good enough to give it, that it does not intend to support any claim that its citizens might make on the occasion of the payment of the 1922 loan in devalued dollars. It notes with satisfaction that it does not seem that the holders of 1922 [obligations] are thinking of calling in question the Haitian Government's absolute right to effect the payment in this way.

By reason of this assurance which the United States Government has been good enough to give it, the Haitian Government does not believe it necessary to set forth the reasons which, in its opinion,

⁷⁹ Brackets here and elsewhere in this document appear in the file translation.

would render such a claim of the holder of 1922 [bonds] hard to maintain. It desires to lay emphasis on the fact that the arrangement with the French Government that is envisaged would, assuming that it is made, constitute neither favored treatment of the holders of 1910 [bonds] nor an act of discrimination against the holders of 1922 [bonds]. The arrangement contemplated would only permit holders of 1910 [bonds] who have not been paid yet to recover a part of the interest on the funds that were deposited in order to be paid to them. The question of determining whether in law, such interest does not belong to such holders is evidently a question that may give rise to controversy, but it is certain that as a matter of equity the holders of 1910 [bonds] have grounds for cleaning such interest. Hence it appears that such an arrangement would not give them any privileged treatment of such a nature as to disturb the susceptibilities of the holders of the 1922 loan.

The Haitian Government wishes to add that the agreement contemplated would definitively put an end to all controversies between France and Haiti with regard to the 1910 loan.

WASHINGTON, July 7, 1937.

838.51/3377b : Telegram

The Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, July 13, 1937—7 p. m.

28. Following a brief conversation with Welles concerning the insistence by France upon a settlement of the 1910 loan claim as a condition of the negotiation of a commercial convention, Henry⁸⁰ telegraphed the Foreign Office for information. Yesterday he told Duggan that the Foreign Office had replied that it has offered to settle the 1910 loan claim on the basis of 1000 paper francs, apparently of present value, for each outstanding bond. Henry endeavored to argue that since the franc had undergone further depreciation recently the amount which Haiti would have to pay under the proposed settlement has actually decreased.

Duggan again spoke to Henry along the usual lines, namely, an expression of the interest of this Government in Haiti's obtaining a satisfactory quota in the French coffee market, and of concern with France's linking settlement of the 1910 loan claim with the negotiation of a commercial convention. Henry said that he would communicate once again our views to his Government.

You are authorized in your discretion to communicate the above to the Minister for Foreign Relations. At the same time you may say

⁸⁰ Jules Henry, French Minister in the United States.

that the Government is at a loss to understand how Mr. Leger could have received the impression last fall that this Government was unprepared to continue extending its good offices in behalf of Haiti with respect to its attitude on the 1910 loan vis-à-vis France. You may refer to the contents of the Department's telegram No. 24 of October 28, 1936, 7 p. m.,⁸¹ which was communicated by you to Mr. Leger. You may say that since no further information was forthcoming from the Haitian Government as to the nature of the demands which France had made in connection with a new commercial agreement with Haiti, and since there was no indication that these demands were "unduly exigent or unreasonable" the Department consequently at that time was unaware of any reasons which would induce it to take further action on Haiti's behalf with respect to France.

Duggan saw Lescot today and informed him of the nature of his conversation with Henry.

The Embassy at Paris is being instructed to reinforce the views expressed to Henry directly to the Foreign Office.

HULL

838.51/3378 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, July 15, 1937—1 p. m.
[Received 11:30 p. m.]

44. Department's 28, July 13, 7 p. m. I had a long interview with Foreign Minister this morning and communicated to him the views contained in the Department's telegram under reference. I not only reread to him the contents of the Department's 24, October 28, 7 p. m. 1936⁸¹ but also recalled to him that on March 16 last (see my despatch No. 447 of that date⁸²) I had reminded him of his inquiry concerning the Department's disposition to assist Haiti and the Department's above-mentioned reply thereto.

I informed Leger that in response to the renewed request recently made by the Haitian Government the Department of State had been glad again to exercise its good offices vis-à-vis the French Government both as regards a coffee quota and the 1910 loan.

I suggested to the Foreign Minister that if he would show a disposition to refrain from making a compromise payment to the French it would in my opinion help the situation with respect to our representations to the French Government. In particular I suggested that as the French on the very eve of signing the commercial treaty had

⁸¹ *Foreign Relations*, 1936, vol. v, p. 681.

⁸² Not printed.

refused to do so on the sole ground of this 1910 claim, if Leger could even assure me that in consequence thereof he now no longer felt even morally bound to pay the French the 10 million francs which he had once proposed (see Legation's despatches numbers 498 of June 1 and 511 of June 26) it would help.

Leger replied that he could not give me an assurance of this importance without first consulting the President but that he would consult the latter (who is at Kenscoff) tomorrow morning and would give me a reply.

Leger professes to be unable to get away from the dilemma that if our representations to the French have no effect the Haitian Government will have to pay some amount of "blackmail" (Leger's word) in order to avoid a heavier loss through the closing of the French coffee market.

I told Leger that I noted with regret that he was disposed to discard the reasoning contained in the Memorandum⁸⁴ handed to Lescot (the Legation's copy is dated June 22) concerning potential claims on the part of 1910 bondholders who accepted payment in paper francs and of 1922 bondholders on the ground of discrimination. Leger replied that he did not think these possibilities were seriously dangerous whereas the eventuality of not being able to dispose of this year's coffee crop on account of losing the French Market was.

Leger repeatedly stated that he greatly regretted having misunderstood the Department's position as set forth in its 24, October 28, 7 p. m., and that when I reread it to him this morning he could see plainly that far from expressing any unreadiness to continue extending our good offices in behalf of Haiti it made clear our inclination to do so upon due cause therefor being shown; he only hoped that his misunderstanding had done no harm.

I shall cable further tomorrow.

GORDON

838.51/3381 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, July 17, 1937—1 p. m.

[Received 2:50 p. m.]

47. My 44, July 15, 1 p. m. Leger excused himself for not having seen me yesterday saying that he had returned too late from Kenscoff. However, I have this morning had long conversations with him and with the President the net result of which as regards the 1910 claim is as follows:

Leger will see the French Minister tomorrow or Monday and, referring to the 10,000,000 francs proposition informally made to the

⁸⁴ *Ante*, p. 569.

French Government, tell him that if the French Government now agrees to such settlement Leger is prepared to go through with it as far as the Haitian Government is concerned. Leger will again say categorically to the French Minister that under the terms of the 1933 agreement such settlement cannot be consummated unless the agreement of the American Government is secured.

If the French Minister is not prepared to agree and does not secure his Government's agreement by cable within a week at most Leger will formally tell him that the Haitian Government resumes its full liberty of action concerning the 1910 claim and no longer considers itself even morally bound by any informal propositions heretofore made.

I shall report more fully on other phases of my conversation with the President upon my forthcoming arrival in the Department.

GORDON

838.51/3393 : Telegram

The Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, July 22, 1937—7 p. m.

29. Your 47, July 17, 1 p. m. In response to a personal telegram from the Under Secretary requesting that Ambassador Bullitt,⁸⁵ if favorable opportunity should arise, express to Delbos⁸⁶ our difficulty in understanding the insistence of the French Government in obtaining an additional settlement on the 1910 Haitian loan as a condition precedent to the granting of a reasonable quota for Haitian coffee, Mr. Bullitt cabled as follows:

"I spoke to Delbos in the presence of both Chautemps⁸⁷ and Blum⁸⁸ with regard to the attitude of the French Government toward Haiti.

Delbos said that he knew nothing whatsoever about the matter; that it had never even been mentioned to him. He promised to inform himself immediately and asserted as did Chautemps that the French Government would desire to do everything possible to meet the wishes of our Government in any matter concerning Haiti.

I shall discuss the question with Delbos at our next meeting."

HULL

838.51/3393 : Telegram

The Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, July 24, 1937—4 p. m.

30. My 29, 7 p. m. Following telegram has been received from American Embassy, Paris: "I discussed yesterday with Delbos and

⁸⁵ William C. Bullitt, Ambassador in France.

⁸⁶ Yvon Delbos, French Minister for Foreign Affairs.

⁸⁷ Camille Chautemps, French Minister of State.

⁸⁸ Léon Blum, French President of the Council of Ministers.

Rochat, director of the American Section of the Foreign Office, the question of French relations with Haiti. Delbos was rather shocked by certain facts which I presented to him and ordered Rochat to investigate the matter thoroughly and give me an explanation today."

HULL

838.51/3396 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, July 27, 1937—1 p. m.

[Received 2:26 p. m.]

50. Legation's 47 of July 17, 1 p. m. Leger sent for me this morning in accordance with his promise and said that he had heard nothing from the French Government except the report of his Minister in Paris to the effect that France would not sign a commercial convention with Haiti except on the basis of a payment of 1000 francs per bond to the 1910 holders. Inasmuch as a week had elapsed since his last conversation with the French Minister here he no longer considers himself bound, even morally, to pay the French holders the 10,000,000 francs he had informally offered them. He has not yet, however, had an opportunity to inform Monsieur de Lens of his decision owing to the reluctance of the latter to come down from Kenscoff. He has not sent for him formally and expects to inform him tomorrow. Meanwhile, he said I might inform my Government. He will let me know as soon as this conversation has taken place.

FINLEY

838.51/3399 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, July 30, 1937—10 a. m.

[Received 12:20 p. m.]

51. My 50, July 27, 1 p. m. Leger, who had failed to send for me yesterday, told me last evening when I met him casually that he had talked with the French Minister to Haiti on July 28 and had told him that he no longer feels bound, even morally, to pay the French 1910 bondholders the 10 million francs he had tentatively offered them as a settlement. Monsieur de Lens begged Leger, the latter said, to hold the question open until he could obtain additional instructions from his Government. The Foreign Minister stated that he replied that while he would always be willing to listen to what the French Government wished to say, the Haitian Government had recovered entire freedom of action in this matter. De la Rue⁸⁹ states that Leger made the same assertions to him.

⁸⁹ Sidney de la Rue, Fiscal Representative.

Leger again expressed his appreciation of the efforts that are being made by our Embassy at Paris and said that he was more optimistic since Duggan had told Lescot that Delbos expected to go personally into the Haitian question.

FINLEY

838.51/3404 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, August 2, 1937—noon.

[Received 1:55 p. m.]

55. Legation's 53, August 2, 9 a. m.⁹⁰ Leger has informed me that the purpose of the French Minister's visit to the Foreign Office this morning was to propose a new examination by them of two or three minor points in the draft of the Franco-Haitian commercial convention. Leger told De Lens that while he was quite willing to discuss any of these points he felt it would be a waste of time to do so unless France was now seriously interested in concluding the convention. Leger said he was unable to decide from what De Lens said whether this new proposal can or cannot be taken as an indication that the French Government is disposed to divorce the 1910 question from that of the commercial convention. He naturally hopes so. In any case he said he repeated very emphatically to De Lens, in order that there could be no mistake, that he had resumed complete liberty of action in the 1910 matter and that he did not feel bound, even morally, to pay the French bondholders anything.

FINLEY

838.51/3415 : Telegram

*The Ambassador in France (Bullitt) to the Secretary of State*⁹¹

PARIS, August 7, 1937—10 a. m.

[Received August 7—9:15 a. m.]

1128. Your 409, August 4, 4 p. m.⁹⁰ Cochran⁹² discussed the Haitian loan question with Bargeton⁹³ and De Cloux⁹⁴ at the Foreign Office yesterday. Bargeton stated that French information with regard to the withdrawal of the Haitian offer of settlement was by no means so definite as the American report. He recalled to Cochran the difficul-

⁹⁰ Not printed.

⁹¹ Text of this telegram was transmitted to the Chargé in Haiti in Department's No. 34, August 7, 4 p. m.

⁹² H. Merle Cochran, First Secretary of Embassy.

⁹³ Paul Pierre Louis Bargeton, Director of Political and Economic Affairs.

⁹⁴ André Leon DeCloux, attached to the American Section of the Office of Political and Economic Affairs.

ties which had been experienced in the past through the French and American Governments receiving varying statements from Haitian officials. He said he could make no reply immediately since further information would have to be sought from Haiti and various French experts consulted.

In reply to Cochran's argument that the commercial treaty should be handled entirely apart from the 1910 bond matter, De Cloux mentioned the possibility of extending perhaps in a somewhat modified form the provisional trade arrangement with Haiti which expires August 31.

BULLITT

838.51/3416 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, August 9, 1937—noon.

[Received 3:24 p. m.]

61. Department's 34, August 7, 4 p. m.⁶⁶ I read Leger most of the Department's telegram. He reaffirmed that the French Government could be under no possible misapprehension as to his position in the 1910 matter. He had several times repeated his declaration to the French Minister here that he no longer feels bound even morally to pay the French bondholders anything. De Lens assured him that he had transmitted this information to his Government. To make certain that it reached Paris correctly he had asked his Minister there to say the same at the Foreign Office and he had done so.

The Legation has considerable ground for believing that De Lens may have understated Leger's declaration to his Government. De Lens expects to leave Haiti in the near future and has expressed anxiety to Leger that his career may be prejudiced unless he can show some tangible success in these negotiations.

With regard to the *modus vivendi*,⁶⁷ Leger said that neither Haiti nor France had materially benefitted by this arrangement. The minimum tariff rates which had been accorded French specialties such as wine were still too high greatly to increase the volume of imports. Moreover, the temporary nature of the agreement had naturally prevented any "futures" market for Haitian coffee in France.

Leger said he personally was not in favor of raising duties on French imports to the maximum level upon the expiration of the *modus*

⁶⁶ See footnote 91, p. 583.

⁶⁷ Signed April 28, 1937; for text, see France, *Journal Officiel*, May 15, 1937, p. 5293.

vivendi. However he expected to inform De Lens that the Haitian Government is seriously considering this step unless the French quota for Haitian coffee can be materially increased by prolonging the arrangement. He said that he considered 30,000 or 40,000 bags wholly inadequate. He wanted to see how the French would react to this.

FINLEY

838.51/3419 : Telegram

The Secretary of State to the Chargé in Haiti (Finley)

WASHINGTON, August 12, 1937—8 p. m.

38. With reference to the Department's telegram 37, August 12, 7 p. m.⁹⁸ reporting the conversations of the American Ambassador with the Haitian Minister in Paris⁹⁹ and with the Acting French Minister for Foreign Affairs, please seek an early interview with Leger and inform him that the Department's reports from Paris are that the French Government has not been advised either by the Haitian Minister or its Minister in Port-au-Prince, of any withdrawal of the Haitian Government's offer of \$500,000 to holders of the 1910 bonds in exchange for signature of the Trade Convention. You may say that this Government will be glad to continue to support Haiti's opposition to making this unjustifiable payment on the 1910 loan but cannot do so unless it is thoroughly informed as to the line the Haitian Government is pursuing and intends to pursue in its negotiations with the French Government.

HULL

838.51/3426

The Chargé in Haiti (Finley) to the Secretary of State

No. 539

PORT-AU-PRINCE, August 14, 1937.

[Received August 16.]

SIR: I have the honor to refer to my telegram No. 64, dated August 13, 12 noon, 1937,⁹⁸ and to transmit the text and a translation thereof of a Note dated August 13, 1937, which has been received from the Haitian Foreign Office regarding the attitude of the Haitian Government with respect to the 1910 loan controversy.

Respectfully yours,

HAROLD D. FINLEY

⁹⁸ Not printed.

⁹⁹ Yrech Chatelain.

[Enclosure—Translation]

*The Haitian Minister for Foreign Affairs (Leger) to the American
Chargé (Finley)*

PORT-AU-PRINCE, August 13, 1937.

MR. CHARGÉ D'AFFAIRES: I desire to confirm in all points the conversation which we have had this morning regarding the attitude of the Haitian Government concerning the non-official propositions which had been envisaged for the settlement of the controversy with France as to the matter of the 1910 loan.

On July 19 I declared to the French Minister at Port-au-Prince that the Haitian Government could not let the existing situation be prolonged; that we thought that the moment had come for us to determine what were the intentions of the French Government; that as a consequence I asked him to be kind enough to let me know definitely whether his Government accepted or not the non-official proposals envisaged for the settlement of the 1910 matter; and whether they were or were not disposed to sign the treaty of commerce which we had negotiated. I likewise declared to the Minister of France that if his Government did not let me learn of its acceptance of the non-official propositions, the Haitian Government would consider itself divested of all moral obligations with regard to this matter, and would recover its absolute freedom of action with regard to the 1910 controversy.

Monsieur de Lens asked for a delay of eight days in order to obtain a reply of his Government to this notification.

As a precaution, on July 21 I cabled to my Minister at Paris asking him to confirm to the Quai d'Orsay the declarations which I had made to the French Minister at Port-au-Prince. On July 23, Monsieur Châtelain replied by cable that my instructions had been executed.

M. de Lens having delayed in letting me know the reply of the French Government, I declared to him, during the course of a new conversation which took place at the end of the month of July, that the Haitian Government had recovered its complete liberty of action and did not consider itself bound in any manner by the non-official proposals previously envisaged. This declaration, which was quite clear, was confirmed during the course of two other conversations which I had with M. de Lens during the first days of August with regard to certain details of the treaty of commerce which was under discussion. No doubt can exist in the mind of M. de Lens as to the attitude of the Haitian Government, and it is equally certain from these conversations that M. de Lens has transmitted to his Government the declaration which I have made to him.

I am therefore able with difficulty to explain the misunderstanding which seems to exist with regard to the position taken by the Haitian Government; I am able to explain still less the declarations which have been made to the American Ambassador by Minister Châtelain and which you were good enough to bring to my attention this morning.

To end this inexplicable situation, I have cabled again this morning to the Minister of Haiti at Paris, asking him to dissipate the erroneous impression brought about by the conversation which the American Ambassador had with him on the 11th of August and giving him instructions to confirm, if he judges it necessary, to the Quai d'Orsay the declarations which have already been made by the Haitian Government with regard to the 1910 controversy.

Please accept [etc.]

GEORGES N. LEGER

838.51/3422 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, August 14, 1937—noon.

[Received 2:16 p. m.]

66. My telegram No. 64, August 13, noon.² Leger sent for me this morning and said that he had received a telegram from Chatelain. The latter reported that he had been advised by the American Ambassador in Paris that Haiti had withdrawn its \$500,000 offer but that he, hoping to reserve a certain freedom of action, had given the Ambassador an indefinite reply. Leger said he had again telegraphed Chatelain to make the attitude of the Haitian Government clear to the Ambassador, and pending further instructions, to refrain from further negotiations toward a *modus vivendi*.

Leger also said that after reflection he was a little afraid that De Lens had not fully reported the Haitian position to his Government.

FINLEY

838.51/3435 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, August 30, 1937—1 p. m.

[Received 5:15 p. m.]

71. Leger sent for me this morning and said that he and the French Minister had now worked out a final draft of a Haitian-French commercial convention and that it could be signed at once if the Minister

² Not printed.

received instructions to do so. De Kuli informed him in answer to a direct question that he did not have explicit instructions to proceed with the drafting of the convention but that inasmuch as he expected soon to go on leave he wanted to have the draft worked out and in final form. De la Rue has the draft and is examining it.

Leger expressed some anxiety that no recent reports have been received concerning the progress made by our Paris Embassy in the 1910 matter. He asked whether I would be willing to telegraph for a report about this and, incidentally, inquire whether Under Secretary Welles, while he is in Paris, could not by reason of his intimate acquaintance with the subject do something to assist. I said I would inform the Department of his request.

Leger then said that for some reason he could not yet understand, his Minister in Paris did not seem to be absolutely clear regarding his Government's attitude in the 1910 matter. He had received the following telegram from Chatelain on August 28:

(Translation). "At the request of the American Ambassador I have promised to remain in contact with him. Yesterday morning I was called to the Quai d'Orsay where they spoke to me again regarding your offer and said that devaluation brings us more and more nearly together and that an agreement could now be reached on a basis of 840 francs in place of a thousand. They added that if things looked as though they could be arranged, I would be sent for again. I deduced from this communication that, first, the American Government has intervened; second, I would like to envisage the signature in the near future no longer of a provisional accord or a *modus vivendi* but of a definite treaty; third, that the Ambassador approves principle of the offer following my explanations on this subject but that the Government is bargaining still to obtain a little more than 500 francs. I have learned in the course of this conversation of the approaching arrival of the American Under Secretary of State and I see in that some connection with the communication made to me yesterday morning."

Leger instructed Chatelain as follows on August 28:

(Translation) "Referring to your cable of August 28, I confirm to you that the Haitian Government considers itself entirely free from all engagements relating to the unofficial propositions previously envisaged. I desire that there shall be no mistake on this subject neither with the French Government nor with the American Government. You will not in any case accept their proposal to enter into discussions with the Quai d'Orsay on the subject of any transaction for regulating the 1910 matter. Work in strict liaison with the American Ambassador."

Leger handed me copies of the above exchange of cables.

FINLEY

838.51/3441 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, September 4, 1937—noon.

[Received 2:45 p. m.]

73. Department's 43, September 3, 5 p. m.³ I informed Leger this morning of the contents of the first paragraph of the Department's telegram under reference. In reply he handed me a copy of a telegram dated September 3 which he has received from Chatelain as follows (translation):

"I received last evening from the Quai d'Orsay the following note:

"In the course of the negotiations with regard to the loan of 1910 various propositions for the arrangement of this matter have been envisaged. In order to permit these negotiations to be usefully pursued, the Minister for Foreign Affairs would be grateful to the Haitian Legation if it would be kind enough to confirm by note what are actually the official propositions which the Haitian Government desires to present'.

"Moreover, the American Embassy told me this noon that a decision had been made in the morning by the French Government to divorce the two questions, which decision will be communicated today to the Minister of France to Haiti in order to get ready the treaty of commerce."

Leger remarked that while the French told the Paris Embassy that the two questions had been divorced, they apparently had said nothing of the sort to Chatelain and had even proposed to him simultaneously that the Haitian Government set forth in writing its official proposals for the settlement of the 1910 question. Before instructing Chatelain what to reply, Leger said he would be grateful if the American Ambassador in Paris following his conversation with Delbos could shed any light on this possible dissimulation. De Kuli has not yet seen Leger and the latter is unaware what instructions may have been received by him.

Draft of proposed Franco-Haitian commercial convention by tomorrow's air mail.

FINLEY

838.51/3445 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, September 7, 1937—1 p. m.

[Received 4:20 p. m.]

75. My 73, September 4, noon. Leger sent for me this morning and said that he had just terminated a conversation with the French

³ Not printed.

Minister to Haiti. The latter had been instructed by his Government to say that in view of the divorce of the 1910 question from that of the commercial convention, conditions had now changed and the French Government was unwilling to proceed with the signature of the convention as it now stands. They are now willing only to take Haitian coffee to a value of twice that of Haitian imports of French products. In effect this would reduce the proposed Haitian coffee quota from 120,000 quintals to about 40,000.

Leger said he had been very angry at this further evidence of French pettiness if not duplicity; that the convention as it stands had been negotiated point by point with the approval of the Quai d'Orsay; and that 40,000 quintals is so small a quota as to be practically worthless. He would never go as far as he had in the draft convention for so insignificant a benefit. He then said that he informed De Kuli that he was leaving Haiti for the United States (see my telegram 74, September 7, noon ⁵) within 8 or 10 days. He was ready and willing to sign the convention as it stands before his departure. If it were so concluded within that period he would see to it that nothing further would be done about it during his absence which might be for 2 or 3 months. De Kuli promised to cable his Government today.

FINLEY

638.5131/175a : Telegram

The Secretary of State to the Chargé in Haiti (Finley)

WASHINGTON, September 13, 1937—7 p. m.

45. In his interview with the French Chargé d'Affaires⁶ this morning, Mr. Duggan outlined briefly to him the developments of the past 3 weeks as respects the Franco-Haitian Commercial Convention and the 1910 loan. While the precise terms of the proposed Franco-Haitian Commercial Convention, the text of which was forwarded in your despatch no. 548 of September 4,⁵ were not discussed, Mr. Duggan alluded to the Haitian disappointment at the proposed reduction in a new Convention of the Haitian coffee quota from 120,000 to 40,000 quintals.

Mr. Henry said that he understood fully the attitude of this Government with respect to Haiti and stated further that Bonnet⁷ on his departure had told Henry that he knew that the French official insistence on the 1910 loan had been "a source of irritation to the American Government" and that he, Bonnet, proposed to take the

⁵ Not printed.

⁶ Jules Henry.

⁷ Georges Bonnet, French Ambassador in the United States.

matter up strongly with Delbos on his return. Accordingly Henry felt that the decision of the French Government to disassociate the two questions had been to some extent influenced by Bonnet's representations.

Mr. Henry expressed some surprise that following the decision to disassociate the two questions the French Government had instructed the Minister in Port au Prince to reduce the coffee quota in a new Convention and inferred that in this case perhaps the subordinate officials of the Ministry of Foreign Affairs were taking action not fully in accord with the decision of Delbos. Henry said that now that he had the facts of the case, he would immediately despatch a strong telegram to Paris. He inquired whether it would be satisfactory to this Government if France should agree to sign the previously negotiated Franco-Haitian Commercial Convention. Mr. Duggan stated that that Convention apparently was satisfactory to Haiti and therefore would in general fulfill our interest in this matter, although he was not in a position to give an opinion as to this Government's attitude with respect to the other terms of that Convention.

The Department has made a cursory examination of the trade clauses contained in the proposed Franco-Haitian Convention forwarded under your despatch no. 548. At an early opportunity you should inform the Foreign Minister that while this Government reserves the right to comment on certain provisions of this treaty as they may affect Haitian-American trade, this Government fully expects that in accordance with the Haitian-American trade agreement of March 28, 1935,⁸ American merchandise similar in nature to French merchandise mentioned in the Franco-Haitian Commercial Convention would receive treatment no less favorable than the French merchandise in question.

At the same time you may outline to the Haitian Minister for Foreign Affairs our general attitude as set forth in the Department's telegram no. 21 of June 20, 1935, 2 p. m.⁹ with respect to such special demands as may be made by France for its commercial products.

HULL

838.51/3449 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, September 14, 1937—noon.

[Received 3:30 p. m.]

79. Leger sent for me this morning following a conversation which he had had with the French Minister to Haiti. De Kuli acting evi-

⁸ Department of State Executive Agreement Series No. 78, or 49 Stat. 3737; for correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 642 ff.

⁹ *Ibid.*, p. 661.

dently upon instructions from Paris, presented the Haitian Government with an *aide-mémoire* substantially repeating what he had told Leger verbally September 4 (see my telegram 73, September 4, noon). In it the French Government states definitely that the 1910 question has been divorced from that of a new trade convention, and then proceeds to state that, in view of the changed conditions, the convention "will have to be made over again". The offer of a quota of 40,000 quintals per annum remains and a small additional quota would be made available for any month following one wherein French imports into Haiti had exceeded 800,000 francs. Leger informed de Kuli that this proposal was entirely unsatisfactory to the Haitian Government, that he would not consider it and that unless France bought enough Haitian coffee to make the business advantageous for Haiti he would recommend the reimposition of the maximum tariff on French goods.

Leger said he was very much annoyed at this intransigent attitude of the French and that he feared that Labonne¹⁰ was again directing Haitian matters at the Quai d'Orsay.

I told Leger the substance of the conversations had by the Department with Henry. He again expressed his warm appreciation of the steps the American Government had taken to aid his country and said that he was instructing Lescot who was returning to Washington shortly to tender this Government's thanks to the Department. If eventually a satisfactory convention could be concluded with the French Government it would be only because of our assistance.

FINLEY

638.5131/181 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, October 11, 1937—2 p. m.

[Received 2:20 p. m.]

89. President Vincent informs me that the French Minister acting apparently without instructions has suggested that the impasse in negotiations for a Franco-Haitian commercial treaty could probably be overcome by a renewal of the Haitian offer to pay the French \$500,000 on account of the 1910 question. He states that he told the Minister that the two questions had been divorced. I said that while Monsieur Delbos had apparently been unable to discuss the Haitian question lately with our Embassy at Paris my unofficial information was that we were not at all convinced that an impasse had been reached

¹⁰ Eirik-Pierre Labonne, Adjunct Director of Political and Commercial Affairs, French Ministry for Foreign Affairs.

and I begged him not to reconsider any payment or reunion of the two questions.

The President then said that the French Minister had come to offer him the Grand Cross of the Legion. He said he told the Minister that its presentation ought to be delayed until a satisfactory solution could be found to the commercial question.

FINLEY

638.5131/182 : Telegram

The Chargé in Haiti (Finley) to the Secretary of State

PORT-AU-PRINCE, October 16, 1937—9 a. m.

[Received 9:30 a. m.]

91. Haitian Government has just informed me that on October 11 it instructed Chatelain to advise the Quai D'Orsay that Haiti would be willing to conclude the proposed commercial convention with France if it can be granted a quota of 100,000 instead of 120,000 quintals of coffee.

FINLEY

HONDURAS

RESERVATION BY THE UNITED STATES OF ITS RIGHTS IN CONNECTION WITH THE PROVISION OF THE HONDURAN CONSTITUTION REGARDING THE EXTENSION OF TERRITORIAL WATERS

615.44A28/1

The Vice Consul at Belize (Gidden) to the Secretary of State

No. 470

BELIZE, September 2, 1937.

[Received September 11.]

SIR: I have the honor to report that on the night of August 30, 1937, the British motor vessel *Caoba* of Belize was stopped by bullets across its bow from the *Zambrano*, a Honduran gunboat used as a coast guard cutter, and searched on the high seas. The incident took place some twelve miles outside of Puerto Cortes, Honduras, and it appeared the Honduran officials suspected the *Caoba* of having on board an individual wanted in Honduras. Nothing was seized and the vessel was permitted to continue its journey. On arrival at Belize the *Caoba* reported the matter to the Customs. Sworn affidavits are being prepared for submission to the Colonial Secretary and representations will be made through the appropriate channels.

The *Caoba* is owned by Robert Sydney Turton, an elected member of the Legislative Council from the Northern District of British Honduras and the honorary Consul for Nicaragua in Belize.

A local press account of the foregoing incident is enclosed.¹

Respectfully yours,

CULVER E. GIDDEN

615.44A28/1

The Secretary of State to the Minister in Honduras (Erwin)

No. 4

WASHINGTON, September 24, 1937.

The Secretary of State transmits herewith a copy of despatch no. 470, September 2, 1937, from the American Consulate in Belize, British Honduras, reporting the alleged stopping and search of the British motor vessel *Caoba* by a Honduran gunboat, presumably outside the territorial waters of Honduras. The Department would be interested to receive such information as may become available with

¹ Not reprinted.

regard to any representations which may be made to the Honduran Government in connection with this act.

615.44A28/2

The Minister in Honduras (Erwin) to the Secretary of State

No. 32

TEGUCIGALPA, October 1, 1937.

[Received October 8.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 4 of September 24, 1937, File No. 615.44A28/1, relative to the alleged stopping and search of the British motor vessel *Caoba* by the SS *Zambrano*, the Honduran gunboat.

A member of the staff of the Legation has obtained the following information concerning this case from His Britannic Majesty's Chargé d'Affaires in this capital:—The British motor vessel *Caoba* sailed from the port of Puerto Cortés, Honduras, in the early morning hours of August 31, 1937, and was stopped by the Honduran gunboat SS *Zambrano*, which fired across its bows, about twelve miles from the coast of Honduras. A thorough search was made by Honduran officials on the assumption that either rebels and/or munitions were on board, but nothing irregular was discovered and the vessel was permitted to proceed.

The British Government has made formal representations to the Honduran Government relative to this stoppage of a British vessel on the high seas, reserving all rights and stating it had viewed with great surprise this unwarranted incident. The Honduran Government has orally indicated its regret and stated that a full investigation was being initiated.

In this connection, the Department's attention is drawn to Article 153 of the new Honduran Constitution of 1936, which states in part:—

“Article 153.—To the State appertains the full dominion, inalienable and inprescriptible, over the waters of the territorial seas to a distance of twelve kilometers from the lowest tide mark . . .”²

It has been learned that at the time of the adoption of the Constitution of 1936 the British Government presented a Note to the Honduran Government indicating its non-acceptance of this designation of territorial waters of twelve kilometers (seven and one-half miles), as in contradiction to international usage in the conception of territorial waters as being approximately three miles from the lowest tide mark.

In the present case, there is no assumption that the Honduran Government was within its rights in stopping the *Caoba* within the twelve

² Honduras, *Constitución Política y Leyes Constitutivas* (Tegucigalpa, 1936), p. 27.

kilometer limit, as the *Caoba* was admittedly stopped about twelve miles from the shore.

However, should a similar case occur within Honduran territorial waters as defined in Article 153 of the Constitution of 1936, there would appear to be no basis of protest unless reservations had been or should be made relative to the Article in question.

The Legation would appreciate any comments which the Department might care to make with regard to its view of this definition of territorial waters.

Respectfully yours,

JOHN D. ERWIN

815.0145/1

The Acting Secretary of State to the Minister in Honduras (Erwin)

No. 17

WASHINGTON, October 19, 1937.

SIR: The Department has received your despatch no. 32 of October 1, 1937 referring to previous correspondence concerning the reported search of the British motor vessel *Caoba* by a Honduran gunboat. You invite attention to the following provision of Article 153 of the Honduran Constitution of 1936:

"To the State appertains the full dominion, inalienable and in-prescriptible, over the waters of the territorial seas to a distance of twelve kilometers from the lowest tide mark . . ."

It is desired that you advise the Honduran Foreign Office in writing that your Government reserves all rights of whatever nature with regard to any effects upon American interests from an enforcement of this Constitutional provision so far as it asserts that the territorial waters of Honduras extend beyond the three-mile limit.

Very truly yours,

SUMNER WELLES

815.0145/2

The Minister in Honduras (Erwin) to the Secretary of State

No. 79

TEGUCIGALPA, November 4, 1937.

[Received November 12.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 17 of October 19, 1937, file No. 815.0145/1, regarding the provision of Article 153 of the Honduran Constitution of 1936, relative to territorial waters, and to enclose herewith a copy of a Note forwarded to the Ministry of Foreign Affairs today, reserving all rights on the part of the United States Government with regard to territorial waters extending beyond the usually accepted three-mile limit.

Respectfully yours,

JOHN D. ERWIN

[Enclosure]

*The American Minister (Erwin) to the Honduran Acting Minister for Foreign Affairs (Laínez Espinosa)*³

No. 16

TEGUCIGALPA, November 4, 1937.

EXCELLENCY: I have the honor to refer to Article 153 of the Honduran Constitution of 1936, which reads in part as follows:

"To the State appertains the full dominion, inalienable and inprescriptible, over the waters of the territorial seas to a distance of twelve kilometers from the lowest tide mark . . ."⁴

In this connection, I have the honor to inform Your Excellency that I have received instructions from the Acting Secretary of State of my Government to the effect that the Government of the United States of America reserves all rights of whatever nature with regard to any effects upon American interests from an enforcement of this Constitutional provision so far as it asserts that the territorial waters of Honduras extend beyond the three-mile limit, namely, a distance of three nautical miles from the line of mean low water.

Accept [etc.]

JOHN D. ERWIN

OPPOSITION OF THE UNITED STATES TO EMPLOYMENT OF AMERICAN AVIATORS IN ACTIVE MILITARY OPERATIONS BY HONDURAS

815.00 Revolutions/564

The Minister in Honduras (Keena) to the Secretary of State

No. 641

TEGUCIGALPA, March 5, 1937.

[Received March 11.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 172 dated February 19, 1937,⁵ quoting a newspaper report which appeared under a Belize, British Honduras date line, concerning an alleged airplane attack on the Sloop *Stella H*. The instruction requests that information be obtained, if possible, with regard to the identity of the airplane involved, if the attack took place, and states the Department would be interested in learning if the planes were manned by American pilots, in the event that the attacking planes were Honduran.

It has been possible to ascertain that the *Stella H*, was subjected to an attack from the air; that the attacking plane was a Honduran Government plane; and that it was piloted by an American aviator.

³ In despatch No. 100, November 22, 1937, the Minister in Honduras transmitted the reply of the Honduran Foreign Office, dated November 19. The reply merely acknowledged the receipt of this note. (815.0145/4)

⁴ Original in Spanish; translation supplied by the editors.

⁵ Not printed.

It will be recalled that the *Stella H.* landed a party of some twelve insurgents, probably including General Umaña and a quantity of arms and ammunition, on the Honduran coast near Tela, the night of February 1, 1937. The statement of Harold B. Clark, an American citizen, who was a member of the crew of the *Stella H.* describes that vessel as a two masted schooner, about forty-five feet long with a displacement of from fifteen to eighteen tons, operated by Captain R. H. Powery of Belize. Copies of Mr. Clark's statement accompanied despatch No. 63, dated February 7, 1937,^a from the American Vice Consul at Tela on the subject of the Protection of Harold B. Clark. This is, doubtless, the vessel described as a sloop in the newspaper article which the Department quotes.

The airplane attack on the *Stella H.* appears to have been made when the *Stella H.* was returning to Belize after the landing referred to of a group of insurgents and a cargo of arms and ammunition near Tela. The British Chargé d'Affaires in Tegucigalpa informs me that the attack took place in the territorial waters of British Honduras and was witnessed by persons on nearby keys. He has lodged a protest with the Honduran Foreign Office which, he states, was mild in form as the traffic in which the *Stella H.* was engaged is known. The *Stella H.* is under Honduran (Spanish Honduran) registry, Captain R. H. Powery (or Powrie) is a citizen of the Republic of Honduras, and no harm appears to have been done in the attack, to the *Stella H.* or to the Captain who was alone on the vessel at the time.

Respectfully yours,

L. J. KEENA

815.00 Revolutions/564

The Secretary of State to the Minister in Honduras (Keena)

No. 186

WASHINGTON, April 19, 1937.

SIR: Reference is made to your despatch No. 646, of March 11, 1937,^a as well as previous correspondence, in connection with the employment by the Government of Honduras of American citizens in the armed forces of that country. The statements recently made to you by President Carias, as reported in the despatch under reference, with regard to the services rendered by American aviators in the recent disturbances in Honduras have been noted.

In your despatch No. 364, of April 24, 1936,^a you reported that both the President of Honduras and the Minister for Foreign Affairs had given you assurances "that American aviators would not be used in military operations". It is now evident that these assurances were

^a Not printed.

not fulfilled, since the American pilots were actively employed during the course of the operations recently carried out against insurgent groups in Honduras. The machine gun attack on the Honduran sloop *Stella H.* in the territorial waters of British Honduras is a case in point.

You are, therefore, instructed to seek an early audience with the President of Honduras and to reiterate to him the importance which this Government attaches to the non-employment of American citizens in active military operations within or without the borders of Honduras and to request him to give you renewed assurances that they will not be so employed.

You should also, at an opportune time, inform the American aviators of the provisions of Section 5282 of the Revised Statutes, and advise them that the obvious intent of the neutrality laws of the United States is to discountenance the enlistment of American citizens in foreign armed forces.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

815.00 Revolutions/578

Memorandum by the Minister in Honduras (Keena), Temporarily in Washington

[WASHINGTON,] June 4, 1937.

In compliance with instruction No. 186 of April 19, 1937, to the Legation at Tegucigalpa, I called on President Carias on April 29, 1937, presented to him the views of the Department, as expressed in that instruction, and asked that assurances be given me by him that the American aviators connected with the Military Aviation School would not be employed in active military operations within or without the boundaries of Honduras.

The President said that as regards military operations anywhere beyond the boundaries of Honduras he could give the most unqualified assurances. He referred to the "attack" on the schooner *Stella H.* in British Honduran waters by a Honduran Army plane piloted by an American aviator and stated that the aviator in that instance had acted without instructions from the Government. Two planes had been sent out to find and keep track of the *Stella H.* which had landed General Umaña and a handful of revolutionists near Tela. One of the pilots discovered the *Stella H.* in British Honduran waters and zoomed down over the schooner several times and fired off a machine gun for the purpose of frightening the Captain who was alone on the schooner but making no attempt to injure either the Captain or the vessel. Instructions have been given all aviators

connected with the Military Aviation School which will prevent the recurrence of any similar incident.

As regards the use of the American aviators of the Military Aviation School in assisting the Government troops in suppressing disturbances of the public order, such as those which have taken place at times in Honduras during the past eighteen months and which he claimed could not properly be characterized as revolutionary, the President said frankly that he could not, at the present time, promise he would not call on the air force piloted by American aviators if an attempt should be made to overthrow his government by armed force. He emphasized that if he did give such an assurance, and it became known, as it doubtless would, his political opponents would be unwarrantedly encouraged to try to foment a revolution against his government which might mean a considerable period of disorder in Honduras. He said that as matters stood he anticipated no uprising against his government from any source and consequently foresaw no occasion for the employment of the American aviators of the Military Aviation School in active military operations and he was very confident that those conditions would continue. He said that he was hopeful that within six or eight months after the completion of the Military Aviation School now under construction it would be possible for the Government to rely entirely on Honduran aviators trained in that school by its American instructors.

(Note) : The school buildings are being constructed at a cost of some \$60,000 and should be ready for occupancy in August. Equipment for the practical instruction of Honduran cadets in the construction principles and details of airplane engines and equipment, and in measures necessary to proper upkeep, has been purchased in the United States and will be installed in the school as soon as the buildings are completed. In the opinion of the undersigned, the Honduran Government since the inception of the plan for an aviation school, about one year ago, has given its best attention toward getting the school organized and ready for practical operation. During the course of this and though without any establishment for general training for aviators, three Honduran cadets have been given sufficient instruction in flying so that they might now be trusted to make solo flights. They will not be allowed to do so, however, until they have had shop and general instruction to fit them to take care of a plane if it got into difficulties during the course of a solo flight. I believe the President is sincere in wishing to build up a corps of Honduran aviators to fly the Government planes and that efforts to that end will be continued. My opinion would be that by the end of the year or shortly thereafter it should be possible for the Honduran Government to man its planes with Honduran aviators to meet any emergency which might arise.

I think that if the President of Honduras is pressed, at the present time, to promise that he will not avail himself of the services of the American aviators connected with the Military Aviation School in case a disturbance of the public order, whether revolutionary or not, should occur, he will take steps to replace them in the School by instructors of some other nationality. As has been pointed out in previous despatches from the Legation, this might lead to regrettable consequences. Colonel Pate, Military Attaché of the Legation, during the course of his visit to Tegucigalpa in March of this year, went over all of the Legation's correspondence in regard to the question of the American aviators in the employ of the Honduran Government. He expressed himself as hopeful that the issue, which appears to be a passing one, would not be forced to a point where the Honduran Government, in order to prevent the immobilization of its air force until cadets to fly the planes could be trained, would find it necessary to employ a non-American personnel for the School in replacement of Mr. William Brooks and the other Americans who are now in course of establishing it. I suggested—and Colonel Pate agreed—that he write the War Department to that effect as a matter of record.

L. J. KEENA

815.248/100

The Minister in Honduras (Erwin) to the Secretary of State

No. 73

TEGUCIGALPA, November 2, 1937.

[Received November 8.]

SIR: I have the honor to refer to the Legation's despatch No. 64 of October 23, 1937,^s and to report that "Colonel" William C. Brooks left Honduras on Saturday, October 30, 1937, for the United States, not to return.

As indicated in the above-mentioned despatch, this leaves no American pilots whatsoever in the employ of the Honduran Government. However, it has been learned, but not confirmed, that Mr. Harold A. White, who was formerly associated with Mr. Lowell Yerex in the control and management of Transportes Aereos Centro-Americanos, is to replace "Colonel" Brooks as Director of the Escuela Militar de Aviación. At the moment, the Honduran Air Force is headed by Captain Luis Alonzo Fiallos, who has under his command eight trained Honduran pilots. There is also one naturalized American mechanic.

Respectfully yours,

JOHN D. ERWIN

^s Not printed.

MEXICO

REPRESENTATIONS AGAINST FURTHER EXPROPRIATION BY THE MEXICAN GOVERNMENT OF LANDS OWNED BY AMERICAN CITIZENS UNTIL AUTHORIZATION FOR PAYMENT BE MADE¹

812.52/2075

*The Acting Chief of the Division of the American Republics (Tanis)
to the Assistant Secretary of State (Moore)*

[WASHINGTON,] December 30, 1936.

DEAR JUDGE MOORE: I refer to despatch 4171 of December 16, 1936, from Ambassador Daniels,² regarding his recent conference with President Cardenas, concerning the religious situation in Mexico, the expropriation law, agrarian and other matters. It is my understanding that the despatch has recently been sent to your office by Mr. Hackworth.³

I would invite your attention to pages 6, 7, and 8 of the memorandum accompanying the despatch respecting the situation in the Yaqui Valley. It appears that President Cardenas is determined to expropriate portions of the farms of about one hundred or more American farmers in that Valley. On page 8 of the memorandum appears the following statement concerning President Cardenas' attitude:

" . . . if President Roosevelt insisted on it *the Mexican Government would wish to make any settlement that he desired with regard to the Yaqui Valley* in order to save him from embarrassment and difficulty in the United States."

Some time ago we took the position in instructions sent to Ambassador Daniels that the Department cannot acquiesce in the expropriation of lands belonging to American citizens unless prompt and effective compensation based upon the actual loss to the owner is to be paid.

Concerning the threatened expropriation of Yaqui Valley lands belonging to American citizens, it seems to me that earnest and careful consideration should be given to the advisability of requesting the President to authorize the Department to instruct the Ambassador

¹ Continued from *Foreign Relations*, 1936, vol. v, pp. 691-715.

² *Ibid.*, p. 709.

³ Green H. Hackworth, Legal Adviser.

to advise the President of Mexico in due course along the following lines:

The President cannot regard without deep concern the continuance of a policy in Mexico which amounts virtually to confiscation of American-owned lands. While the President would have no objection to a settlement of the specific case of the Yaqui Valley problem along the lines of a plan acceptable to the American landowners in that area, he sincerely hopes that not as a favor but as a matter of right from now on there may be a cessation of expropriations of American-owned lands in Mexico unless prompt and effective compensation based upon the actual loss to the owners of such lands is to be paid. The President also anticipates that arrangements will shortly be made by the Mexican Government for the effective compensation of American citizens who have already been deprived of their property.⁴

R. C. TANIS

812.52/2117

The Secretary of State to the Vice Consul at Guaymas (Yepis)

WASHINGTON, February 27, 1937.

SIR: The Department has received your despatch No. 310, of February 18, 1937,⁵ regarding the agrarian problem in the Yaqui Valley, in which you quote the text of a letter dated February 17, 1937, from Mr. John D. Stocker, representative of the American landowners in the Yaqui Valley, together with the pertinent portion of your reply to Mr. Stocker's communication. It appears that the American landowners have suggested that the Department should request the Mexican Government to make known its intentions with reference to possible expropriation of American-owned lands in the Yaqui Valley before making any definite resolution in the matter.

In view of the fact that the matter has been the subject of discussions between the Department's representatives and officials of the Mexican Government, the Department is reluctant to believe that that Government would take definitive action looking to the expropriation of the lands in question without giving the Department's representatives previous notice of its intentions in that respect. However, it should be understood that the Department cannot assume the responsibility that would be entailed by its giving the American landowners a definite assurance that they will be advised in advance of any such action as may be contemplated.

⁴The Secretary of State discussed this subject at length with President Roosevelt. The latter agreed with Mr. Hull that with regard to cases of expropriation arising in Mexico, each case might be treated and dealt with upon "its own special state of facts". The United States would at the same time preserve its "formula and principle of just compensation." (812.52/2212). Subsequently, the Secretary brought up the question in his conversation with the Mexican Ambassador on April 20, 1937; see p. 605.

⁵Not printed.

You are authorized to convey the substance of the foregoing to Mr. Stocker in reply to his letter of February 17, 1937.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

812.52/2131

The Secretary of State to the Consul at Guadalajara (Winters)

WASHINGTON, March 18, 1937.

SIR: Reference is made to your despatch No. 307 dated January 7, 1937,⁶ concerning the expropriation of lands in Mexico owned by members of the Newton family. In the final paragraph of your despatch you request to be informed whether, in connection with other expropriations affecting lands owned by American citizens, application for compensation for which was not filed within one year as prescribed by the Agrarian Code,⁷ diplomatic claims might be filed by the owners.

The Department considers that it would be advisable for all American citizens whose lands in Mexico are expropriated to make application to the Mexican authorities for compensation therefor in accordance with the requirements of Mexican law. This, it is believed, should be done even in those cases where the limitation on such application has expired. If any such claimants should present a claim before making application to the Mexican authorities for compensation, the Department would not, of course, refuse to examine the claim. It should be understood, however, that in receiving them, the Department does not obligate itself to do more than to give consideration thereto with a view to determining whether a valid claim exists and, if so, whether it should be presented at some early date as an individual case to the Mexican Government or held for presentation at a later date with other similar cases.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

812.52/2157

*The Department of State to the Mexican Embassy*⁸

MEMORANDUM

[WASHINGTON,] March 24, 1937.

It is understood that a decision is impending on numerous petitions for *ejidal* dotations affecting a great many American-owned

⁶ Not printed.

⁷ Mexico, *Código Agrario de los Estados Unidos Mexicanos* (Mexico, 1934) p. 69; translation in Eyler N. Simpson, *The Ejido, Mexico's Way Out* (Chapel Hill, 1937), pp. 757-808.

⁸ Handed to the Mexican Ambassador on April 1.

properties of large and moderate dimensions in the Yaqui Valley. If these lands are expropriated very many individual Americans will be deprived of their properties.

When confronted a year or more ago with the probable loss of their properties in the near future, the landowners are understood to have joined together and proposed alternative solutions of the local land problem, one of which contemplated the creation of an *ejidal* district from land to be contributed by the private owners, which land was to be put in shape for the growing of crops at the present owners' expense. Another plan involved the contribution of a substantial fund by the landowners by voluntary assessment over a period of a few years, which fund was to be employed for the purpose of enabling the agrarians to cultivate Government-owned lands, which are said to be available for distribution to them. During the last five or six months, the landowners, with the informal assistance of the American Vice Consul at Guaymas, have been trying to persuade the Mexican Government to accept one of these alternative propositions. There is no indication thus far that these efforts have been successful and the interested American citizens are now fearful lest action depriving them of their properties may suddenly be taken without further notice.

It is earnestly hoped that the Government of the United States or its representatives will be consulted before any final decisions affecting these American-owned properties are reached.

812.52/2164

Memorandum of Conversation, by the Secretary of State⁹

[WASHINGTON,] April 20, 1937.

During the call of Mexico's Secretary of the Treasury¹⁰ and the Ambassador,¹¹ I brought up the land seizure question and, after expressing lasting friendship and interest, said that we were in entire sympathy with any program to distribute lands among the peasants; that as friends and neighbors we were encouraging the same thing in Cuba; and that we had no sympathy with people from other countries going into Mexico and fleecing the Mexican people by any sort of method. I said that any foreigner going there and purchasing prop-

⁹ This memorandum, together with one on the Pan American Highway (not printed), was sent to the Ambassador in Mexico under cover of a personal letter dated April 25, 1937 (not printed). "With respect to the agrarian claims", Secretary Hull wrote, "you will understand that our conversation was informal. Each case arising will, of course, require careful consideration of all the pertinent facts."

¹⁰ Eduardo Suarez.

¹¹ Dr. Francisco Castillo Nájera.

erties for a trifle and later expecting the Mexican Government to pay large amounts therefor, comparatively speaking, was without any sympathy so far as I was aware or concerned; that the only real question arising was whether it was possible for the Mexican Government—when some citizen from this country, in good faith and in a spirit of good will towards Mexico, had gone there and in a perfectly honest manner purchased lands or other properties with no plan or purpose to make undue or unreasonable profits or, as stated, to fleece the Mexicans, but solely with a view to fair play and fair dealing—to determine what would be reasonable and just in the way of compensation when properties were thus taken; if so, that it would be much appreciated by this Government and would enable us to be much more helpful to the Mexican Government and the Mexican people than we otherwise would be able in the future.

The Secretary of the Treasury promptly replied that he understood and appreciated this viewpoint and that they were undertaking to work to this end. He repeated it with emphasis.

C[ORDELL] H[ULL]

812.52/2170 : Telegram

The Vice Consul at Guaymas (Yepis) to the Secretary of State

GUAYMAS, April 28, 1937—10 a. m.

[Received April 29—1:35 a. m.]

Governor Yocupicio informed me yesterday in part that President Cardenas would be in Sonora about May 20 at which time the latter might decide the Yaqui Valley agrarian problem possibly by postponing it until the completion of the Angostura Dam if he should decide to accept the proposal of the American landowners, which acceptance, however, he could not assure. The Governor suggested that all the landowners of the area should organize immediately and start fund mentioned in the proposal of the Americans out of the bumper wheat crop which is about to be harvested, thereby demonstrating to the President immediately upon arrival in the area, through concrete action already taken, their willingness and ability to cooperate with the Government in the matter, adding that fund so collected can be returned to the contributors by their own committee if the President refuses the question and proceed with the division of the valley under the agrarian code. Please instruct me by telegraph if I may advise the Americans involved, informally and without responsibility, of my conversation with the Governor and possibly even suggest compliance. Embassy not informed.

YEPIS

812.52/2162

The Secretary of State to the Vice Consul at Guaymas (Yepis)

WASHINGTON, April 28, 1937.

SIR: The receipt is acknowledged of your despatch No. 335 of April 15, 1937,¹³ concerning the agrarian difficulties of American landowners in the Yaqui Valley, Sonora. You suggest that, in case the Mexican Government definitely decides to expropriate the American properties in the Yaqui Valley under the Agrarian Code, the American landowners might find it advantageous to request the Mexican Government to conduct the expropriation proceedings under the Expropriation Law of November 23, 1936; and you inquire whether the Department desires that you suggest to the landowners, informally and without responsibility, that they consider the advisability of being prepared for such an eventuality.

The Department disapproves of the suggestion offered and desires that you make no such suggestion to the American landowners in the Yaqui Valley. Such a suggestion would amount to the giving of advice regarding the interpretation and applicability of Mexican legislation, and it is contrary to the practice of the Department to undertake to furnish advice of this nature.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

812.52/2170: Telegram

The Secretary of State to the Vice Consul at Guaymas (Yepis)

WASHINGTON, April 29, 1937—5 p. m.

Your April 28, 10 a. m. If you are satisfied that the Governor would not object to your repeating substance of his remarks you may informally and without responsibility inform American landowners accordingly. You should not however recommend compliance or non-compliance with his suggestions. Keep Embassy promptly informed of all developments.

HULL

812.52C71/41: Telegram

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

WASHINGTON, May 5, 1937—6 p. m.

90. Your strictly confidential despatch No. 4643 of April 30.¹³ The Department agrees that the Embassy is advocating a method of pro-

¹³ Not printed.

cedure calculated at present to produce more effective results by endeavoring to discuss agrarian cases with the Mexican Government before they reach an acute stage in the hope that the Mexican Government will find methods of adjustment with the American owners of the property, so that solutions acceptable to the owners may be reached. You may advise the Mexican authorities accordingly, referring specifically in this relation to the cases of the Colorado River Land Company and the Yaqui Valley landholders as among those which it would appear entirely possible and highly desirable from the standpoint of both Governments to adjust amicably. As corollary to the suggested procedure, you may express the hope that Mexico will in future cases defer placing agrarians in possession of American owned properties pending discussion with the interested persons and the exhaustion of efforts to achieve a mutually satisfactory settlement. You should make it clear, however, that if this suggested procedure is adopted this Government must necessarily retain full liberty of action with respect to the possible presentation or support of claims of American nationals for proper indemnification in the event that the latter are unable or unwilling to agree to a settlement as a result of direct discussions or in the event that no discussions take place.

With respect to proposals that have been submitted to the Mexican authorities by the landowners in the Yaqui Valley or that may be presented by other American citizens whose lands are threatened with expropriation, the Embassy should understand that this Government cannot undertake to pass on the merits of such proposals or to endeavor to induce their acceptance either by the Mexican Government on the one hand or by individual American landowners who may represent a minority opinion on the other. However, it is believed that with respect to such proposals, when they appear to the Embassy to be fair, the Embassy would be warranted in endeavoring to bring about promptly meetings between the proponents and the appropriate Mexican officials whereat such proposals may be presented and thoroughly discussed, and furthermore that, while the Embassy should not put itself in the position of endorsing proposals, even though apparently worthy, it might well request early and careful consideration thereof.

HULL

812.52/2240

The Chargé in Mexico (Boal) to the Secretary of State

No. 5056

MEXICO, July 16, 1937.

[Received July 21.]

SIR: I have the honor to refer to the fact that in certain agrarian cases the prospects of assisting American landowners appear to be

more favorable if such cases are taken up with the Agrarian Department direct, rather than "through channels" (i. e.—the Foreign Office).

In cases where the results obtained from the Agrarian Department are not satisfactory (as for example that of Mrs. Mae Dunne Narró—despatch No. 5045 of July 15, 1937¹⁵), the question arises of whether any claims or other rights of the affected landowners are prejudiced by our not having dealt with cases through the Foreign Office or by our failing, after having been unsuccessful in the dealings with the Agrarian Department, to report the circumstances to the Foreign Office.

We have made limited progress in the direct handling of several cases and have some hope of achieving at least amelioration in specific instances. Consequently, we are reluctant to abandon this method of dealing with certain agrarian cases. It is thought possible, however, that if it is necessary, in order to protect the rights of affected American landowners, to inform the Foreign Office of the details of cases not susceptible of solution at the Agrarian Department, the Foreign Office may well raise objection to any direct relations between the Embassy and the Foreign Office [*Agrarian Department*].

The Department is respectfully requested to instruct the Embassy (1) as to whether the possible eventual espousal and prosecution of the claims of American citizens whose lands have been expropriated would be prejudiced in instances where the cases had not been taken up through the Foreign Office but had been discussed direct with the Agrarian Department; and (2) as to whether, in the absence of an agreement by landowners not to present any claims, the claims or other rights of such landowners are prejudiced by the working out of a compromise agreement through the Embassy and the Agrarian Department respecting the "localization" of a "dotation" or "restitution" of lands from their properties.

Respectfully yours,

PIERRE DE L. BOAL

812.52/2255 : Telegram

The Consul at Ensenada (Smale) to the Secretary of State

ENSENADA, August 15, 1937.

[Received August 16—9:30 a. m.]

By courier to San Diego and Western Union. Reference despatch No. 1407 June 30.¹⁵ Department is informed that at meeting called by Mixed Agrarian Commission at Mexicali at Lazaro Cardenas Colony in Maneadero Valley today, attended by Governor of Territory, Mixed Agrarian Commission delegate, agent of Agricultural

¹⁵ Not printed.

Credit Bank, various military and civil authorities, petitioners for land within said colony, representative of Ventura Ensenada Land Company and by myself as an observer, the Governor and delegate of Mixed Agrarian Commission announced that the solicitude of the petitioners for land in the colony had been acted upon favorably and that provisional grants had been made from the following amounts of land: 2,000 hectares of national lands, 1,800 hectares from Victor Marsh Company, 1,000 hectares from Ventura Ensenada Land Company and 500 hectares from Carl Carr. Judging from my conversation with Governor and Chief of Second Military Zone previous to meeting and to their and other addresses at meeting, the intention of the authorities is as much to deprive foreigners of their use of lands as to assist nationals in bettering their economic condition . . . Mixed Agrarian Commission agent informed me that representatives of the affected properties have not exercised various of the privileges extended by the agrarian code with respect to presentation of observations and delineation of lands which they might wish to reserve and my study of the case indicates this to be true. My belief is that their legal advisers, possibly through ignorance but probably on account of pressure from local authorities or agrarian elements, have misled their clients. Embassy will be informed by code tomorrow and Department and Embassy will be kept currently informed of developments.

SMALE

812.52/2255 : Telegram

The Secretary of State to the Consul at Ensenada (Smale)

WASHINGTON, August 16, 1937—6 p. m.

Your August 15, 1937. The Department understands that a decree issued by the governor of a state or by a local commission under the Mexican Agrarian Law is subject to review by the Agrarian Department at Mexico City before a final expropriation decree may be issued, and that during the proceedings the owner of an affected property is afforded an opportunity under the law to defend his rights and interests therein before that Department.

It is recommended that you suggest to the American landowners affected the advisability of their arranging either directly or through representatives to defend their rights and interests before the appropriate Mexican agrarian authorities. Inform them that you will be glad upon request, to render proper assistance to them or their representatives, but that the Consulate cannot assume responsibility for the execution of the legal procedure involved or the details thereof.

HULL

812.52/2254 : Telegram

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

WASHINGTON, September 8, 1937—6 p. m.

185. Your 223, August 14, 10 a. m., and telegram September 6, 2 p. m. from Guaymas.¹⁷ In view of the fact that whatever action is taken by the Governor of Sonora with reference to Yaqui Valley lands will be subject to review of Mexico City, the Department desires you to discuss promptly Yaqui Valley agrarian situation with General Hay¹⁸ or with President Cardenas with a view to protecting American-owned properties in that Valley.

HULL

812.52/2310

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

No. 5437

MEXICO, September 20, 1937.

[Received September 27.]

SIR: I have the honor to refer to the Department's telegram No. 185 of September 8, 6 P. M., and recent reports from Vice Consul Yepis,¹⁹ regarding the agrarian problem in the Yaqui Valley.

Upon receipt of the Department's telegram in reference, I again mentioned to General Hay our interest in the matter. General Hay asked that I speak also to the Undersecretary of Foreign Affairs on the subject.

There follows a summary of that part of my conversation on September 13 at the Foreign Office with the Undersecretary concerning the matter:

I took up with Mr. Beteta the situation with reference to the dotation of lands, belonging to Americans, to Mexicans who had made application for land under the Agrarian laws, mentioning particularly the Yaqui Valley lands about which I had talked at length with President Cardenas some months ago.

Mr. Beteta said the situation as to the Yaqui Valley was one that had given him much concern. He did not think that any action would be taken immediately as to their lands. He asked me how many Americans had land in that section and I told him there were upwards of one hundred, and that I had made representations to President Cardenas personally in their behalf.

In view of the reported imminence of an unfavorable provisional decision of the case by the Governor of Sonora, possibly in accordance with instructions from the President of Mexico, I have addressed an

¹⁷ Neither printed.

¹⁸ Eduardo Hay, Minister for Foreign Affairs.

¹⁹ Reports not printed.

informal letter on the subject to Mr. Beteta. A copy of that letter is enclosed.²¹

Respectfully yours,

JOSEPHUS DANIELS

812.52/2325

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

No. 5494

MEXICO, October 5, 1937.

[Received October 11.]

SIR: I called on Licenciado Beteta, Undersecretary of Foreign Affairs, by appointment at the Foreign Office today to discuss various pending matters.

I first mentioned the question of the Yaqui Valley along the lines of a memorandum of which a copy is being submitted under cover of a separate despatch ²¹ (copy *not* left at Foreign Office), supplemented by observations to the effect that before very long our Congress would re-assemble and the matter might be discussed very acrimoniously were the lands of American citizens in the Yaqui Valley to be expropriated under the Agrarian Code. I also called attention to the substance of a telegram from the American Consul at Guaymas dated October 4, 1937,²¹ in which the Consul said:

"The State Secretary General, in the absence of the Governor, informed me today definitely that the Yaqui lands will be divided later this month upon the arrival from Mexico City of Agrarian Chief Vázquez who will bring the Agrarian Department file on the case with him. I will leave tonight for Consular Convention at Mexico City. Department has been informed."

Licenciado Beteta said that he was not familiar with the latest developments in the Yaqui Valley case. I told him that last December I had discussed the matter at some length with President Cárdenas and I requested Mr. Beteta to ask the President to take no action in the matter until I could see him again. Mr. Beteta replied that the President was expected to return to Mexico City on October 8, and that he would make arrangements for me to have an interview promptly with President Cárdenas.

On the general subject of agrarianism as it affects American citizens, I stated to Mr. Beteta that I did not see how Mexico could possibly justify its policy of expropriating lands without making provision for them, his Government having in the original legislation authorized the issue of bonds in payment of lands expropriated. I then handed him a copy of the enclosure to my despatch number 5489 dated October

²¹ Not printed.

5, 1937,²² consisting of figures taken from Mr. Simpson's "The Ejido."²³ These figures were attributed to Mexican official sources by Mr. Simpson. Without definitely indicating the source of the figures, I said that they were the best available and inquired why Mexico could not at least issue the remaining bonds which had been authorized, and stressed the importance to Mexico of at least paying for the lands dotated. The reply was made that this avenue would be explored. (I may observe here that the Commercial Attaché²⁴ has been informally advised by the Secretary of the Treasury that he has worked out a plan for the payment of bonds to affected land owners. The Commercial Attaché also understands that a part of the two million pesos supposed to have been included in this year's budget for the beginning of payment of the agrarian debt, was allocated to the issuance of bonds of the interior public debt, which are now being exchanged for the old Federal agrarian bonds, and that the remainder will be set up in the Treasury towards redemption of the coupons of the new bonds it is proposed to issue. The plan the Secretary of the Treasury has in mind apparently does not envisage any payment of accrued interest on existing agrarian bonds, but does contemplate servicing the new bonds to be issued.)

I also took up the matter of the threatened dotation of lands in San Luis Potosi, known as the Hacienda de Pardo, belonging to Valdemar Knudsen, Edward D. Bangs and Emile Von Hiller, all American citizens. Mr. Beteta said that the agrarian question in San Luis Potosi was a complicated one due to the existence of several schools of thought on the subject. One, as a result of General Cedillo's²⁵ influence, being a preference for ownership of lands in fee simple, which course is apparently advocated by various *campesinos* who in this way are on the side of the land owners. He promised to look into the matter of the Hacienda El Pardo concerning which I left a memorandum (copy enclosed with separate despatch) with him.

I also took up the matter of the regulations of the so-called Stolen Automobile Convention,²⁶ and suggested that the best way to put an end to the present delay would be for him to designate a representative of the Foreign Office to confer with a member of my staff. This thought seemed to appeal to Mr. Beteta and he said that in a day or two he would advise me of the name of the representative he would designate.

Respectfully yours,

JOSEPHUS DANIELS

²² Not printed.

²³ Eyler N. Simpson, *The Ejido, Mexico's Way Out* (Chapel Hill, 1937), pp. 221-222.

²⁴ Thomas H. Lockett.

²⁵ Saturnino Cedillo, former Minister for Agriculture.

²⁶ Signed October 6, 1936, Department of State Treaty Series No. 914, or 50 Stat. 1333.

812.52/2240

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

No. 1757

WASHINGTON, October 18, 1937.

SIR: Reference is made to your Embassy's despatch no. 5056 dated July 16, 1937 in regard to the propriety and effect of taking up directly with the Agrarian Department cases involving the expropriation of land belonging to American citizens.

With respect to your first question it may be stated that the Department perceives no reason why the possible eventual espousal and prosecution of the claims of American citizens whose lands have been expropriated should be prejudiced in instances where the cases have not been taken up through the Mexican Foreign Office but have been discussed directly with the Agrarian Department.

As to your second question the Department informs you that in the absence of an agreement by landholders not to present any claims, their claims or rights would not, in its opinion, be prejudiced by the working out of a compromise agreement through the Embassy and the Agrarian Department. Such an agreement would presumably envisage the expropriation of a portion of the lands owned and no reason is perceived why the owner of such lands would not have a just claim for compensation on account of the land so taken even if a compromise agreement should be effected.

However, it would seem advisable in all expropriation and squatter cases for the Embassy to forward a note to the Foreign Office in connection with each case as it arises before discussing the case directly with the Agrarian Department, and to address such further notes to the Foreign Office as circumstances in each case may appear to warrant.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

812.52/2345: Telegram

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

MEXICO, October 22, 1937—8 p. m.

[Received October 23—6:45 a. m.]

279. Yepis' despatch #382, August 17 and his telegram of October 21st [20th]²⁷ regarding Yaqui Valley. I am forwarding in today's pouch an account of my conversation of today with President Cardenas on this subject.²⁸

²⁷ Neither printed.²⁸ Not printed.

The President told me he would telephone to the head of the Agrarian Department at Ciudad Obregon this afternoon asking him and the Governor of Sonora, accompanied by representatives of landowners of American and Mexican nationality in the Yaqui Valley, to come to Mexico City to discuss the situation with him next week. He expects that no dotation would be made prior to this discussion. He feels that efforts to compensate through issuance of bonds would be of no material benefit to Americans. These bonds would have to be issued previously for all land taken since 1931. He hopes to reach an adjustment with Yaqui landowners by giving them land not now irrigated but which is to be irrigated from the dam which is to be completed in 1939. This land would be in compensation for all land taken from them over and above the 100 hectares to be left each of them as *pequeña propiedad*. He assured me these *pequeñas propiedades*²⁹ would have priority of water rights.

He said that in order to avoid future dotations, the Americans receiving such land in compensation should sell it in small tracts upon completion of the dam. He has under consideration the issuance of bonds at low interest rate in compensation for land taken in other parts of the country.

I recommend that Yepis be instructed to report to the Embassy at Mexico City when representatives of American landowners come here. He has been advised of proposed conference and of this recommendation.

DANIELS

812.52/2345 : Telegram

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

WASHINGTON, October 26, 1937—4 p. m.

210. Reference telegram October 23, 9 a. m. from Guaymas.³⁰ Please look into point raised by Yepis that decision to dotate eight instead of four hectares of Yaqui Valley land to each applicant for land is illegal. Presumably Vice Consul has in mind article 47 of Agrarian Code, and the Department understands that land in question is irrigated.

If you consider point well taken please take up matter with appropriate authorities.

HULL

²⁹ i. e., small properties. Article 51 of the Agrarian Code provided that holdings of irrigated lands not exceeding 150 hectares, and holdings of seasonal lands not exceeding 300 hectares, were not to be affected by dotation.

³⁰ Not printed.

812.52/2351 : Telegram

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

MEXICO, October 28, 1937—midnight.

[Received October 29—6 : 30 a. m.]

281. Representative of American landowners and representatives of other landowners in the Yaqui saw President Cardenas yesterday, Gabio Vasques [*Gabino Vásquez*] and the Governor of Sonora were present. The President, according to the representative of American landowners, told them that unirrigated lands would be given them in exchange for their irrigated properties, that they could select and keep 100 hectares of their present lands apiece, that they would have water for these 10 hectares tracts, that when the Angostura dam is finished in 1939 they could irrigate and sell the exchange lands, indicating that discussion of any other proposals would be useless.

In view of the foregoing I saw Beteta this afternoon to stress the seriousness of the situation and urge discussion of arrangements with the landowners' representative here before dotation. Boal saw him again tonight leaving him a map and a memorandum of points meriting consideration before final action is taken. Beteta was urged to endeavor to arrange to have landowners complete planting of wheat and harvest crop in June 1938 before dotations are made. Suarez³¹ was also urged to press the merits of this suggestion with the President. Beteta has now gone to see the President.

Gabino Vasquez and the Governor of Sonora are scheduled to return to the Yaqui tomorrow to proceed with dotation.

The representative[s] of the landowners have tonight received a copy of the Presidential *acuerdo* ordering dotation of the Yaqui Valley lands on October 31st and containing the provisions contained in the first paragraph of this telegram.

DANIELS

812.52/2358

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

No. 5588

MEXICO, October 28, 1937.

[Received October 30.]

SIR: I called today at the Foreign Office and had a long talk with Mr. Beteta about the situation with reference to the dotation of lands in the Yaqui Valley. I handed him a formal note, a copy of which I am enclosing herewith, which he read and we then discussed its contents. He said that he was rather disappointed that the situ-

³¹ Eduardo Suarez, Minister of Finance.

ation was as I represented it and that the President had thought, since he had offered to give the Americans other lands, that they were satisfied. I told him that doubtless their courtesy to the President and their respect for him had caused them to seem to be satisfied and that they had not had the opportunity to present their counter-proposals as they had desired. I told him that the Embassy had received communications from senators who had constituents who were affected by these dotations of lands and that they were very perturbed—I mentioned Mr. MacAdoo among others—and that these senators, doubtless, if the situation could not be adjusted or modified would send their protests to the Department of State and that unless some agreement were reached a situation might arise which could be very embarrassing for both countries. Mr. Beteta said that he appreciated that fact and that he would read my note very carefully. I told him that I understood that German and Mexican land owners, who were in the same boat as the American land owners, had seen Mr. Suarez, the Minister of Hacienda, this morning and that Mr. Suarez seemed very sympathetic to their suggestions, especially with reference to payment for tools, material, etc. and the giving of a longer time for the planting of wheat and the harvesting thereof. Mr. Beteta said he would take up the matter at once with Mr. Suarez and give consideration to all I had said in person and to the formal official note which I gave him.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure]

The American Ambassador (Daniels) to the Mexican Minister for Foreign Affairs (Hay)

No. 2486

MEXICO, October 27, 1937.

EXCELLENCY: I have the honor to refer to the interview of this morning between President Cárdenas and the representative of the American landowners in the Yaqui Valley, as related to me by the latter.

Certain courses of action are understood to have been outlined to that representative, concerning which I desire to offer the following observations.

Regarding the apparent intention of the Mexican Government to dotate more than four hectares (from 5 to 8 hectares) of American-owned land to each *ejidatario* on the theory that the land is "temporal" (Article 47, paragraph II of the Agrarian Code) it may be observed that the Government intends to allow *pequeñas propiedades* of only 100 hectares to each American landowner. This would appear to

present a combination of circumstances not in keeping with the Agrarian Code. Article 51, paragraph II, of that Code, provides that when the *pequeña propiedad* is in "temporal" lands, it shall be of 300 hectares, or under the circumstances described in the last paragraph of Article 51, it is to consist of 200 hectares. It appears, therefore, if the information reaching me is correct, that the lands which it is proposed to donate are being classified in two different ways in the same decision, to the disadvantages of the American landowners and without following the Agrarian Code of Mexico. I am informed by the representative of the American landowners opportunity was not afforded him for presentation of his views and reasons in support of them.

The question of indemnification of the American landowners for their canals and other irrigation works (Article 54 of the Agrarian Code) on their property proposed by the Government for affectation does not seem to have been resolved. Likewise the question of equality of water rights on the affected lands and the lands it is proposed to give the American owners in exchange appears not to have been thoroughly explored.

Respecting the proposed evaluation of the lands to be taken and the lands to be given in exchange therefor, my Government strongly feels that there should be no dotations until the evaluations have been completed and that this should also apply in the matter of the payment for equipment, animals and other objects to be acquired by the Mexican Government.

In connection with the proposed dotation of American owned lands in the Yaqui Valley, it is understood that President Cárdenas has approved the continuance of planting of wheat until October 30, 1937. Such plantings are to be exempt from dotation until the wheat crop has been harvested.

Apparently reliable estimates indicate that approximately only 30% of the wheat crop can be planted prior to October 30.

I am informed that since all of the wheat lands have already been plowed and irrigated at considerable expense, the owners will suffer great loss if they are not granted several weeks additional time for the planting of the remaining 70% of their wheat lands, and, of course, allowed to harvest the entire wheat crop. Moreover, it is doubtful whether the *ejidatarios* could be organized in time to plant the crop before the planting season expires. Thus, a greatly deficient wheat crop, with consequent loss to the national economy, is to be expected if the American landowners are not given the facilities they desire to complete the planting and harvesting of that crop.

Thus, in the interest of all concerned, it is practically most desirable that the request of the landowners in this regard be approved.

It is to be observed that in most cases practically all of the financial resources of the American farmers in the Yaqui Valley are tied up in their lands, their equipment, and the preparations already made for sowing wheat.

As I have heretofore said to you, by direction of my Government, which is greatly disturbed over the taking of land from Americans, it urges that adequate compensation should be made both for lands affected under the Agrarian Code, and for the improvements on these lands prior to dotation.

Please accept [etc.]

JOSEPHUS DANIELS

812.52/2359

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

[Extracts]

No. 5586

MEXICO, October 29, 1937.

[Received October 30.]

SIR: I have the honor to refer to my despatch 5588 of October 28, 1937, and to enclose (1) a copy of a strictly informal memorandum of points suggested for adjustment and (2) a translation of the *acuerdo* which reached the representatives of the landowners of the Yaqui Valley in Mexico City yesterday evening at about half past nine. . . .

I expect Licenciado Beteta to advise me today of the outcome of his conversation with President Cárdenas last night. I believe that, as President Cárdenas apparently issued his *acuerdo* before receiving the views for which he had asked me and since the *acuerdo* was made public here in this morning's newspapers, there is little likelihood of obtaining the delay for harvesting the crop in June which was requested. It is possible, however, that if we continue to press for other points connected with the transfer of non-irrigated lands in exchange for irrigated lands provided for in the *acuerdo*, some results helpful to the American landowners may yet be obtained.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure 1—Memorandum]

The American Embassy to the Mexican Ministry for Foreign Affairs

1. Acta should contain a list of the Americans and authority for them to own new lands within 50 kilometers of the coast.

2. There are approximately 41 properties in the Yaqui Valley in excess of 100 hectares either owned outright by Americans or by companies which are practically owned by Americans.

3. These 41 landholders have a total of approximately 18000 hectares of irrigated lands. Deducting from the foregoing 18000 hectares, 4100 as *pequeñas propiedades* at the rate of 100 hectares for irrigated land, we have approximately 13900 hectares which it is understood the Mexican Government desires to affect.

4. The crop production on this land which the Government desires to affect represents a net income of approximately 26 pesos per hectare per year. Therefore the net income annually for the area to be affected is approximately 361,400 pesos.

5. These properties have certain improvements on them including irrigation systems which alone represent very roughly an investment of 69,500 pesos.

6. In addition to this there are fences, dwellings, other buildings, animals, equipment, and drainage systems. The value of these can not be estimated even approximately without a survey for that specific purpose.

7. Article 54 of the Agrarian Code provides: [Translation] ³².

"The following shall not form part of dotations:

I. Buildings of any kind, provided they are not in ruins, it being understood that they are in such condition when, because of their state of destruction, they are not used for any purpose;

II. The hydraulic works enumerated below:

(a) Dams and reservoirs, with the exception of flooded lands regularly devoted to the planting of crops; (b) diverting works, such as dams, spillways, intakes, limiting works, etc.; (c) conduit works, such as tunnels, canals, aqueducts, pipe-lines, etc.; (d) drainage galleries; (e) works for improvement of springs; (f) pumping stations; (g) wells, provided they are in service on the property affected."

In view of the above, it would seem that the improvements on the land if and when dotated should be assessed and paid for in accordance with the Code. It may be observed that the irrigated area in which affectations are planned in [*is?*] approximately 45,000 hectares of irrigated lands, of which the agrarian commissions' plans call for the affectation of approximately 18000 hectares of irrigated lands.

8. It is understood that the areas now in the possession of the Mexican Government bordering on the irrigated areas westward of the principal irrigation canal can be irrigated by gravity when the Angostura Dam is completed. In that event the blocks in those areas would have to be prepared for irrigation and the irrigation systems installed at the expense of the owners of the land. The region eastward of the main irrigation canal and immediately adjacent to it can be irrigated only by pumping unless an additional main canal should be installed eastward of the present main canal. The cost of installation and the

³² Original in Spanish; translation from Eyler N. Simpson, *The Efido*, p. 773.

current cost of irrigation by pumping is understood to be considerably higher than the cost of gravity irrigation. The cost of installation alone for irrigation by pumping is understood to be at least 35 pesos per hectare.

9. The above makes it obvious that lands given in exchange for lands dotated should be irrigable by gravity.

10. The landowners observe that plans now drawn by the Agrarian Commissions already indicate *pequeñas propiedades* although it is understood that the owners are to have a right to select these. As shown on the plans these *pequeñas propiedades* are in certain cases isolated from the houses of owners. This would obviously make for friction and difficulty of operation and should be rectified, the owner being permitted to select his own *pequeña propiedad*.

11. It is understood that these owners of *pequeñas propiedades* are to be assured an equal proportion of water with other owners and that they are not in any way to pay for the water. We understand this to mean that the owners of *pequeñas propiedades* are not to be called upon to contribute to the maintenance of the general system of irrigating as distinct from irrigation systems located upon their own *pequeñas propiedades*.

12. It is contended that certain of the petitioners for dotation are not qualified under the Agrarian Code for dotation and that there may be other irregularities. An opportunity should be given the owner, as it is understood is to be done in the Mayo Valley to scrutinize the census lists and other elements of the dotation and to present and discuss evidence regarding these lists and other points in order that dotations may conform to the Agrarian Code.

13. It is understood that special arrangements are contemplated to permit Americans receiving irrigated lands in exchange for lands dotated to hold these unirrigated lands free from the danger of further dotation until they have been irrigated and can be sold fairly.

14. This number has been skipped.

15. It seems obvious from the above considerations that a study of the conditions under which the proposed exchange of lands could be carried out fairly should be made. This would involve estimation of the value of the irrigated lands, and the improvements on them and of the land to be given in exchange, and a study of the cost of conditioning the new land and the amount of loss due to non-production of crops which would fall upon the American landowners. Presumably such a study would be made by a commission composed of representatives of the Government and of the American landowners.

16. It would seem beneficial both to the National economy and to the American landowners that they should be permitted to plant and harvest this year's crop, pending a determination of these conditions

by such a commission, possession of the present irrigation land to be given only after a satisfactory arrangement of the transfer of lands has been concluded.

17. At the same time, a study could be made of the possibilities and time of payment for improvements, and for the conditioning of the new land, where the cost to the Government of conditioning the new land was recovered through sales of that land, such sums would presumably be repaid to the Government at the time of the sale. The compensation for loss of crops to the American landowners pending completion of the dam and general irrigation works could also be studied by the commission.

18. It is suggested that a further meeting of the American landowners and the appropriate representatives of the Government be held now to go over the considerations above outlined.

[Enclosure 2—Translation]

Presidential Acuerdo of October 27, 1937

Resolution of the Federal Executive to solve the agrarian problem of the Yaqui region in the State of Sonora.

I. After the necessary studies made by the agrarian authorities of the Federal Government and by those of the State Government of Sonora, the Governor of that State issued the orders to grant *ejidos* to the thirteen nuclei of rural population in the Yaqui region. The respective *ejidal* possessions will be carried out next Sunday by the corps (*brigada*) of engineers of the Agrarian Department and of the Mixed Agrarian Commission which is already engaged in field works in the region in question.

II. In the transaction, resolution and execution of the agrarian cases concerned, the small agricultural property under development which, according to the General Constitution of the Republic and the Agrarian Code, is unaffectable, will be respected; with the understanding that because of the excessive rural population, it is necessary to apply the last part of fractions I and II of Article 51 of the Agrarian Code. In respecting the hundred hectares of irrigated land for each proprietor, the right to the use and better utilization of the water for the irrigation of the hundred hectares is defined and assured, with the obligation on the part of each proprietor to comply with the legal and regulatory dispositions regarding this matter.

III. The area of eight hectares of cultivable land (*Tierras de cultivo*) for each individual, plus the area of lands for communal uses, shall serve as the basis for the effects of the amount of the *ejidal* affectations, in view of the fact that the laws governing waters are

different from the laws governing the ownership of lands in that region at present.

IV. The petitions (*gestiones*) of proprietors presenting themselves before the execution of the orders granting possession of *ejidos* in the exercise of the right which the law grants regarding the location of their small agricultural property, will receive attention.

V. In granting the *ejidal* possessions, there will be allowed the periods for the harvesting of crops which the law orders in the cases of lands already planted; in the case of lands prepared for agricultural cultivation, a just appraisal of such works of preparation will be made through the representatives of the National Bank of Ejidal Credit, with a view to reimbursing those who may have effected them, charging the amount to the *ejidatarios* benefitted by the dotation of lands.

VI. In the regulation for the use and utilization of the waters, account shall be taken of cases when there may be a scarcity of that liquid, in order that the quotas may be allotted among the irrigated lands of the small agricultural properties under development and the cultivated lands granted to the *ejidatarios* in proportion to the areas and plantings (*cultivos*) of each.

VII. The agricultural implements and machinery with which the lands dotated as *ejidos* may have been worked and which the owners thereof may wish to sell, shall be acquired immediately through the National Bank of Ejidal Credit against the credit of the *ejidos* which are to use them, after appraisal, in each case.

VIII. The petitions which may be presented immediately by agriculturists contributing towards the *ejidal* dotations in question will be favorably resolved by the Ministry of Agriculture and Development, in order that among the areas of land not yet open to cultivation between the left bank of the Yaqui River and the right bank of the Mayo River, they may be shown the portion where they are to carry out fractioning works subject to the law of colonization, in the extension and location to be duly determined with right to the use and utilization of the waters of the dam under construction in Angostura, and in the quantity likewise to be determined on lands without water for pasturage or collective uses, without cost, to them, for lands and waters.

IX. To the Yaqui Tribe is granted the entire area of workable land located along the right bank of the Yaqui River, with the water necessary for irrigation from the dam under construction at Angostura, as well as the entire sierra known as the "Sierra del Yaqui," the members of which shall be provided with the resources and elements necessary for the best development of their lands. Accordingly, the

Agrarian Department shall proceed immediately to effect the survey (*planificación*) of the entire region mentioned, in order that the Federal Executive may issue definitive titles to the nuclei of population of the Tribe in question; for its part, the Ministry of Agriculture and Development shall dotate to the same nuclei of population of the Tribe broods of cattle, horses and sheep, according to the needs of the region and the uses of the Tribe, and for the proper utilization of the pasture lands within the area granted them; the National Irrigation Commission shall carry out the works that may be required within the lands of the Tribe for the irrigation thereof, as well as the drainage works, road-building and other constructions that may be deemed necessary for the development and progress of the Indian families of the Yaqui population.

In considering all the aspects of compliance with the agrarian program of the Resolution in the important Yaqui region, this Executive under my charge hopes for and expects (*reconoce y espera*) the cooperation which is required of all the proprietor-agriculturists of the region, who are equally obligated to observe an attitude of patriotism when it is sought to apply the law, as is being done throughout the Republic.

Cause it to be published.

Cause it to be complied with.

Effective Suffrage. No Reelection.

NATIONAL PALACE, October 27, 1937.

*The Constitutional President of the
United Mexican States*
L. CARDENAS

812.52/2372

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

No. 5616

MEXICO, November 2, 1937.

[Received November 4.]

SIR: I have the honor to refer to my despatch 5588 of October 28, 1937, reporting my conversation with the Undersecretary for Foreign Affairs regarding the agrarian expropriations in the Yaqui Valley and enclosing a copy of my note 2486 of October 27th on that subject; and to enclose a copy and translation of a note which has just been received from Licenciado Beteta in reply thereto, number 312243 of October 29, 1937. Comments on this note will be forwarded to the Department in a separate despatch.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure—Translation]

*The Mexican Under Secretary for Foreign Affairs (Beteta) to the
American Ambassador (Daniels)*

No. 312243

MEXICO, October 29, 1937.

MR. AMBASSADOR: I take pleasure in referring to Your Excellency's esteemed note 2486 of the 27th instant regarding the interview which the representatives of the American landowners of the Yaqui Valley had with the President of the Republic; an interview of which they gave an account to Your Excellency and which gave rise to certain observations contained in the note under reference.

As regards the apparent duality in the classification of the lands to which Your Excellency refers: that is, that they were considered non-irrigated (*de temporal*) for purposes of dotating up to eight hectares to each *ejidatario*, and, on the other hand, were considered as irrigated lands for the purpose of limiting each small property to only one hundred hectares, I beg to inform Your Excellency as follows:

First: The owners of lands in the Yaqui Valley are not owners of the water, and therefore the lands are, in reality, non-irrigated (*de temporal*) and certainly would be converted into irrigable lands subsequent to the dotations, upon application of the Law of Waters, which gives preferential rights to *ejidos*. Therefore, when the *ejidatarios* are granted more than four hectares such action is within the law.

Second: As a result of the foregoing, if the owners prefer that they be left the small property which the Agrarian Code specifies for non-irrigated land (up to 300 hectares), this can be done—but they will not have water rights.

Third: Believing that the above solution is not favorable to the interests of the owners, the Government thought it proper to convert the non-irrigated lands into irrigated lands, giving them, accordingly, an equal right (to water) as the *ejidos* and making a free grant of water. Thus conditioned, the lands are strictly irrigated lands, and therefore the small property can consist of only one hundred hectares. Your Excellency can see, therefore, that there has been no duality of standards, but, on the contrary, a desire to help the affected land-owners.

As regards indemnification asked by the owners for canals and other irrigation works, it should be borne in mind that, since on the new lands which they will receive there will also be improvements (*obras*) of this nature, made at the cost of the Mexican Government, such improvements will therefore be ample compensation for the owners in question.

The matter of water rights pertaining to the lands which are given in exchange for the properties affected is set forth absolutely clearly in the *acuerdo* issued by the President: The Government of Mexico

will give lands which are gravity-irrigated and equivalent to the lands affected.

The appraisal prior to dotation, desired by the American Government, is impossible in view of the fact that the dotations will be made next Sunday, the 31st instant. But, since the nature and condition of the lands would not vary, the appraisal can be made immediately following the dotations, without fear of any change due to the mere fact that the lands have been granted in dotation. The Government believes it has a right to command confidence, and not the belief that, once the lands have been distributed, it will cease to meet its obligations (*cumplir sus compromisos*).

As regards the animals and tools, these will be paid for in cash at the time they are delivered by their present owners to the *ejidatarios*.

Your Excellency is right in thinking that the crops obtained on these lands which have been sown with wheat up to October 30th of this year will belong to the present owners, and that crops sown later than that date should be the property of the *ejidatarios*. This is in fact provided for in the President's Decree, already known to that Embassy. Nevertheless, the owners will be indemnified for the work of preparing and irrigating the lands. To prevent the danger of lowered production of wheat, an effort will be made in each case to secure an arrangement between the owners and the workers whereby the planting will not be delayed and the owners not suffer losses.

As Your Excellency will see from the foregoing explanations, the desire of the American Government that the owners of lands in the Yaqui Valley should receive adequate compensation for tools and equipment as well as for the lands affected, is met by the provisions of the respective Presidential *Acuerdo*; for, as regards the lands, the owners will receive the equivalent in other lands with water rights—lands in reality better than those which they are losing, since at present they have to pay for the water and in the future irrigation will be free both for the small properties left to them and for the new lands which are given to them for colonization purposes.

As regards equipment, tools, and animals, as well as the work done in sowing wheat: the Government will indemnify in cash.

Accept [etc.]

R. BETETA

812.52/2391

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

No. 5617

MEXICO, November 4, 1937.

[Received November 6.]

SIR: I have the honor to refer to my despatch 5616 of November 2, 1937, enclosing a copy of a note from the Foreign Office regarding

the Yaqui Valley agrarian situation, and to enclose a copy of a note left with Licenciado Beteta yesterday evening by Mr. Boal in reply to that communication.

In the course of the conversation on the subject Licenciado Beteta explained that while he had been under the impression that the President intended to have the Agrarian Department endeavor to have arrangements made between the American landowners and the agrarians for renting back the lands dotated to them until the June wheat harvest, he realized now that the President had merely referred to arrangements and he had drawn his own deductions as to the rental system.

Mr. Boal urged him to endeavor to have the arrangements made on a rental basis, pointing out that this was the current basis used in the Valley and that the crop-sharing arrangements under that system were all provided for by law in Sonora. He pointed out that the system provided that the renter pay the taxes, water charges, and other expenses connected with the land, so that the owner receives 12½% of the crop, net. He informed Licenciado Beteta that the representative of the American landowners had yesterday suggested that if rental arrangements were made under the auspices of the Agrarian Department, the American landowners would need to keep the greater part of their equipment until the harvest had been gotten in. The 12½% share could then be taken up by the Banco Ejidal and the proceeds used for the purchase of this equipment after the harvest. This would make it unnecessary for the Government to put out cash both to purchase equipment at the present time and to finance the *ejidatarios* for the preparation of the land and other work connected with the crop. Presumably those of the *ejidatarios* who now work for a wage on the land would thus continue to have employment, so that the question of tiding them over until the harvest might not arise in many cases. All this, it seemed, would be financially helpful to the Government, while the landowners would have an opportunity to make their usual crop before the lands were taken out of their hands.

In this connection, Mr. Boal pointed out that according to the representative of the American landowners many of these would prefer to have their *pequeña propiedad*, as offered in the Mexican Government's note under reference, as non-irrigated land, thus keeping two or three hundred hectares, instead of one hundred. In that event it would be necessary to work out a rental adjustment which would not constitute recognition by the American landowners of lands to be dotated, since the amount and location of these lands would remain uncertain until the *pequeñas propiedades* of non-irrigated land had been delimited. Obviously, the Government would not wish to postpone the making of the rental arrangement until all

the *pequeñas propiedades* had been measured, since that would involve a disastrous delay in the planting of the crop, to the disadvantage of all parties concerned. He also pointed out that there were few people in the Valley who made a business of planting and tending crops as contractors; that the regular farmers did not and probably would not do this; that those who did were not sufficient in number and had not enough equipment to take care of any appreciable amount of the land in the Valley planned for dotation. Under these circumstances the *ejidatarios*, if no rental arrangement were reached, would have to prepare the land, and it seemed likely that in the limited time remaining for planting a great deal of land would either remain unplanted or would be improperly planted and tended, so that the crops would be unsatisfactory, to the detriment of everybody concerned.

Licenciado Beteta said that he would discuss these points with the President with a view to trying to work out some arrangement.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure]

The American Ambassador (Daniels) to the Mexican Minister for Foreign Affairs (Hay)

No. 2492

MEXICO, November 3, 1937.

EXCELLENCY: I have the honor to acknowledge the receipt of the Foreign Office's note 312243 of October 29, 1937,³⁴ which reached me yesterday afternoon.

In this note are set forth the Mexican Government's reasons for making a classification of the American-owned lands in the Yaqui Valley as irrigated for the purposes of determining the *pequeñas propiedades*, and as unirrigated with respect to the dotations to the agrarians. In the paragraph marked "Second" of that note you say:

As a result of the foregoing, if the owners prefer that they be left the small property which the Agrarian Code specifies for non-irrigated land (up to 300 hectares), there will be no difficulty in doing this—but they will not have water rights.

The representative of the American landowners in the Yaqui Valley informs me that some, and possibly all, of the American landowners wish to accept this offer and will file with such authorities as Your Excellency may indicate applications for their small properties as non-irrigated land, to receive up to three hundred hectares as provided in the Agrarian Code. My understanding is that under this arrangement the distribution of water to the American landowners

³⁴ *Ante*, p. 625.

will be governed by the existing contract for the delivery of water, but that the *ejidatarios* will be entitled to water rights for themselves as set forth in the Agrarian Code.

The note under reference does not take up the question of the eligibility of the persons on the census of *ejidatarios*. Am I correct in believing that the American landowners in the Yaqui Valley will be permitted to challenge the eligibility of persons on this list, under the Agrarian Code, not only in general but particularly if it is claimed that there are a sufficient number of applicants unsatisfied with land to cause the American landowners to receive, under the provisions of the Agrarian Code, less than the three hundred hectares for small properties of non-irrigated land?

As regards indemnification, it is my understanding from the note under reference that American landowners will receive new land, now unirrigated but irrigable by gravity, in amounts adequately compensating them for any of their lands dotated, to be improved with canals and other irrigation works at the expense of the Mexican Government, at least to the same extent as the lands to be dotated now carry such improvements. Am I correct in believing that such improvement will include the clearing of the new land, so that, when irrigated, it will be similar in character to the land dotated? Am I correct in my understanding that the irrigation system for this new land will not only be installed on the land but will be brought to it at the expense of the Mexican Government, and that this new land will be the first to be opened to irrigation when the Angostura Dam is completed? Am I correct in my understanding that the evaluation of the lands to be dotated and of the new lands to be given in compensation will be made by a commission composed of a representative of the landowners, a representative of the Governor of Sonora, with such technical assistants as may be necessary?

The note under reference does not deal with the question of improvements, such as buildings, fences, drainage systems, bridges, etc. Am I correct in believing that such improvements are to be paid for?

The note under reference makes it clear that the animals and tools belonging to the American landowners which they may wish to sell are to be valued and will be paid for by the Government in cash, at the time they are delivered by their present owners to the *ejidatarios*. I should appreciate receiving from Your Excellency information as to how the valuation is to be carried out.

The note under reference does not indicate what compensation will be made to American landowners for higher hauling costs in the event that new lands to be given them in exchange for lands dotated are farther removed from mills and railroads than their present holdings.

I should appreciate receiving information from Your Excellency on this point.

The note under reference indicates that these new lands are to receive free water as soon as the Angostura Dam can provide them with this water. Am I correct in understanding that there will be no cost whatever to the American landowners for this water: that is to say, that they will not be called upon to contribute to the maintenance of the general irrigation system or to pay any kind of tax providing funds for such purposes?—and that this free water will go with the land in perpetuity, thus increasing its sales value?

The note under reference does not deal specifically with any compensation to the American landowners for the loss of crop production during the years intervening from the present time until water is brought on to their new lands and they can begin to farm them. Am I correct in understanding that the American landowners will be given permission to hold those lands for an extensive period beyond the date of their receiving the water, so that the additional value of the free water during the years when they can farm the new lands will compensate them for the years during which they have been unable to produce crops owing to lack of water?—further, that such permission will be renewable, so that the American landowners will not find themselves faced with a fixed date by which they must sell, which would presumably adversely affect the possibility of selling the land for its fair value? Am I correct in understanding that during the period to which I refer above these lands will not be subject to agrarian affectation? I should appreciate information on these points from Your Excellency.

The note under reference informs me:

Your Excellency is right in thinking that the crops obtained on these lands which have been sown with wheat up to October 30th of this year will belong to the present owners, and that crops sown later than that date should be the property of the *ejidatarios*. This is in fact provided for in the President's decree, already known to that Embassy. Nevertheless, the owners will be indemnified for the work of preparing and irrigating the lands. To prevent the danger of lowered production of wheat, an effort will be made in each case to secure an arrangement between the owners and the workers whereby the planting will not be delayed and the owners not suffer losses.

I should appreciate learning from Your Excellency how the American landowners are to be indemnified for the work of preparing and irrigating the lands, and what arrangements between the owners and the workers are contemplated by your Government.

Please accept [etc.]

JOSEPHUS DANIELS

812.52/2396

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

No. 5629

MEXICO, November 6, 1937.

[Received November 8.]

SIR: I have the honor to refer to recent reports regarding the affectation of American-owned lands in the Yaqui Valley, Sonora, particularly despatches numbers 5616 and 5617, dated November 2 and 4, 1937, respectively.

There is enclosed a translation of note number 312538 of November 6, 1937, from the Foreign Office on the subject. A translation of the enclosure to that note is also enclosed.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure—Translation]

The Mexican Under Secretary for Foreign Affairs (Beteta) to the American Ambassador (Daniels)

No. 312538

MEXICO, November 6, 1937.

MR. AMBASSADOR: I have the honor to refer to Your Excellency's note number 2492 of the 3rd of the present month.

Your Excellency states that certain American landowners desire to have their lands classified as lands irrigated by rains (temporal) for the purpose of determining their *pequeña propiedad*, and you ask me before which authorities they should file application to this end.

In reply, I wish to inform Your Excellency as follows:

While it is true that in my previous note number 312243 of October 29th, I explained to that Embassy the reasons why there was no legal objection to the selection by the landowners of the Yaqui Valley the *pequeña propiedad* which the Agrarian Code prescribes for lands irrigated by rains (temporal), provided they were agreeable to not receiving water, nevertheless, in the same note, under point three, I informed Your Excellency that that solution was not expedient for the owners in question, and that for that reason the Government had considered it advisable (*oportuno*) to convert them into irrigated lands (*tierras de riego*), granting them water free to this end.

Inasmuch as, contrary to what might logically be supposed, it appears that certain American landowners now prefer to change the terms of the agreement, and desire to know the competent authority before whom to make application, I beg to inform Your Excellency that it is the Agrarian Department before which such a petition

should be filed, and that, since the Chief of the Agrarian Department is at present in Sonora, studying the most expeditious and expedient manner of complying with the Presidential *Acuerdo* of the 27th of last month,³⁵ he would be the best person to receive that request.

However, I wish to draw the attention of Your Excellency to the following points which I have had the opportunity to discuss amply with Mr. Pierre de L. Boal, Counselor of the Embassy, and which I am certain will convince Your Excellency that the American landowners should desist from the action contemplated :

First. In the conference between the President of the Republic and the landholders of the Yaqui Valley, including the American landholders, the President made it clear, and without the slightest protest on the part of the interested parties, that the small property which the proprietors would retain would consist of 100 hectares of irrigated land.

Second. The works of distributing the lands to the *ejidatarios* and of locating the small properties should be practically completed by now, and any change of procedure might seriously retard the solution of the problem and, consequently, to create a situation of insecurity and of tension which we should for every reason seek to avoid.

Third. If the American landowners retain lands, which undoubtedly will not have water, they will feel themselves defrauded and consider that the Government is leaving them a useless property.

Fourth. If, as a result of the works on the dam, or due to any other cause, those 200 hectares, which are now lands irrigated by rains, should be converted into irrigated lands, they would again be subject to agrarian affectation, in excess of one hundred hectares, and therefore would create new problems in the region.

Fifth. It cannot be assured a priori that it will be possible to permit each landowner to retain 200 hectares and still have enough land to satisfy the needs of the *campesinos* entitled to receive lands. Consequently, by accepting the change proposed, the problem of the Yaqui region, which it is precisely sought to solve, would remain without solution.

In view of the foregoing reasons, the Government deems it necessary to insist upon the expedience of not modifying the arrangement made to the effect that it shall be 100 hectares of irrigated land and not the hectares corresponding to lands irrigated by rains which are indicated as the *pequeña propiedad* for the landowners of the Yaqui Valley.

As regards the supposition of Your Excellency that the American landowners might challenge the eligibility of the persons figuring in the census list, in order to ascertain whether or not the needs of the *campesinos* are entirely satisfied, I should say to Your Excellency that the time for that right to be exercised has now passed and that,

³⁵ *Ante*, p. 622.

in the present status of this case, it would be not only illegal but highly inexpedient to seek to reopen the controversy concerning the eligibility of the petitioners.

The remaining points of your note refer to indemnities for land, animals and equipment, as well as to works on the lands which have been affected.

In my conversations of yesterday and today with Mr. Pierre de L. Boal, Counselor of the Embassy, we discussed extensively each one of the details presented by the practical situation, and in those talks I set forth the reasons for the attitude of the Government, which attitude is characterized by the desire to seek the coöperation of the landowners and to obtain promptly an understanding between them and the *ejidatarios*, in order to prevent the works from being suspended and to preserve the harmony which fortunately has been maintained in the Yaqui region.

In the *acta* drawn up in Ciudad Obregon, Sonora, on October 30th last, there were precisely determined the form and method to be followed for the payment of the indemnities to which the note under acknowledgment refers. I am transmitting herewith to Your Excellency a copy of that *acta*, which answers the questions contained in Your Excellency's note number 2492.

I renew [etc.]

R. BETETA

[Subenclosure—Translation]

Acta of October 30, 1937

In Ciudad Obregon, State of Sonora, Mexico, on the thirtieth day of the month of October of nineteen hundred thirty seven, at four o'clock P. M., there gathered together in the Decree Room of the Confederation of Agricultural Associations of the State of Sonora, under the Presidency of Mr. José María Parada, Manager of said concern, the under-signed, with a view to seeking (*concretar*) the manner in which they shall cooperate in the resolution of the agrarian problem in the Yaqui Zone, in compliance with the decree dictated by the President of the Republic, General Lazaro Cardenas, on the twenty-seventh day of the present month, the following being approved:

First: The farmers who sign hereto appreciate in its real significance the attitude of the President of the Republic, Division General Lazaro Cardenas, as well as that of Messrs. Lic. Gabino Vázquez, Chief of the Agrarian Department, General Román Yocupicio, Governor of the State, and Engineer Pascual Gutierrez, Director General of Credit of the Ministry of Finance, whose cooperation they expect in exchange for that which the undersigned offer to lend. They esteem in its true value, and lend their support to, the decree dictated

by the President of the Republic on the twenty-seventh day of the present month.

Second: The undersigned farmers are willing to cooperate in proportion to their strength and their possibilities, for the best realization of the sowing of the affected lands, for which effect they have agreed:

(a) That the indemnification for preparation of the affected lands, which have not been sown up to midnight of Saturday, October 30th, be made by the proprietors accepting notes for the value of said work, issued by the Delegate (member) chosen and the President of the Board of Vigilance of the Local Association of Credit of the *Ejido* in question. The notes shall have a maturity of 260 days from the date of their emission and they shall earn nine percent interest per annum for the total length of time they remain unpaid. The documents will carry the endorsement signature of the Agency of the National Ejidal Bank of Credit in Navojoa, which endorsement will cover all the responsibility for principal and interest in case the *ejidatarios* do not fulfill their agreement. The amount of the indemnifications shall be fixed by agreements entered into by the proprietor affected and the Ejidal Society of Credit in question, with the intervention of the Bank's representative, in the understanding that within a period of three days from this date, all the corresponding notes shall be granted. The farmers shall decide the payment (*en pago*—typographical error?) (or, "shall determine in payment said documents") (*decidirán en pago dichos documentos*) on condition that the local banks accept them for discount with endorsement without the responsibility of the benefiting farmer (endorser).

(b) For the work of sowing, the continuation of which is requested for the account of the *ejidatarios*, the farmers shall accept the payment in documents emitted with the same characteristics of those described in the above paragraph, which shall be presented for discount of the local banks in the same manner. The liquidations shall be made weekly, or before, on request of the contractor, serving as order of payment the inspection note or *constancia* on work effected, expedited by the inspector of the Ejidal Bank or the Bank which accepts the discount, in the understanding that the inspection shall be practiced also weekly or before, on request of the contractor.

(c) The Ejidal Bank of Credit shall furnish the seed and the water necessary to carry out the sowing.

(d) In the cases where the proprietors do not agree (*aceptar*) to celebrate a contract to effect in order to effect the sowing of the affected lands, the sale of the necessary implements to carry it out can be made, if the same proprietors are willing; it being possible in every case for the Ejidal Bank in question to enter into the respective contract with a person distinct from the affected proprietor.

(e) For the effects of the Federal Labor Law, the contracting proprietors shall be considered as mere intermediaries between the workers employed and the Ejidal Society of Credit in question, which shall be considered as the "boss" (*patron*) for all the effects of the law.

(f) The contractor shall make the contracted sowing in the usual manner in the region, with the care they would take in their own busi-

ness; but in no way will he be responsible for accidents, suspensions or other analogous cases caused by *force majeure* or unexpected reason.

Third: The farmers affected by dotations and amplifications to the *poblados* of Cocorit, Bacum, Esperanza and the thirteen benefited lately in the region of the Yaqui, accept in compensation for the lands which are the object of dotations or amplifications, lands of those comprised by the colonization system which will be opened upon the conclusion of the works of the Angostura Dam, in proportion to the quality and value of those lands, which proportion shall be not less than $1\frac{1}{2}$ hectares for each one of those affected, with the understanding that the location and transfer of the lands offered in compensation shall be effected immediately, according to the views set forth by the Governor of the State, who will continue to watch this matter until Point No. VIII of the Presidential Decree (*acuerdo*) of October 27th to which reference has been made, has been entirely complied with.

Fourth: The farmers consider it expedient that the problem arising from the affectation of their lands be studied and resolved in a form satisfactory to their interests, in relation to the purchase-sale contracts with mortgage guarantee concluded with respect to such lands with the Richardson Construction Company and other institutions and persons. Considering the official character of the said company which practically makes the Federation the owner of the lands covered by the contracts in question and subject to the agrarian affectations (under consideration).

Fifth: The taxes on the lands affected shall be for the account of the new owners from the time of their delivery in provisional possession, with the exception of those upon areas covered by extensions of time granted for the harvesting of crops, in which case they shall be for the account of the proprietor affected until the termination of the period granted.

Sixth: The necessary expenditures to make the fences (*cercas*) which separate the properties affected from the portions not affected shall be shared equally by the owners of adjoining properties.

This concluded the meeting, the resolutions of which are contained in the present act for purposes of record, which act is signed by those who participated therein.

812.52/2421

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

No. 5693

MEXICO, November 18, 1937.

[Received November 22.]

SIR: I have the honor to report that Mr. Boal had an interview at the Foreign Office on November 15, 1937, with Licenciado Beteta.

The originals of the attached memoranda on various points of interest to the American landowners in the Yaqui Valley, Sonora, were left with Mr. Beteta.

A copy of this despatch, with enclosures, has been mailed to Vice Consul Yepis in order that he may, in his discretion, verbally advise the American landowners of this action on the part of the Embassy.

Mr. Boal's conversation with Mr. Beteta is being reported in a separate despatch.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure 1—Memorandum]

The American Embassy to the Mexican Ministry for Foreign Affairs

PRIORITY FOR AMERICAN LANDOWNERS OF YAQUI VALLEY IN
SELECTING "COMPENSATION" LANDS

Since the American landowners in the Yaqui Valley made such an important contribution to the social progress of that area through beginning and fomenting its development, since they will be handicapped in selling their "compensation" lands advantageously in consequence of the comparatively limited time in which they must dispose of the said lands and because of the limitation placed on the marketing of these lands which cannot be sold to foreigners on account of being within 50 kilometers of the seacoast, it is not believed that the giving of priority to the Americans in the choice of "compensation" lands would be otherwise than fair.

As an alternative or concomitant arrangement, it is suggested that it may be practicable for the Mexican Government to offer to purchase the "compensation" lands from the American landowners, or to arrange for them if they so desire, to mortgage these properties for a substantial part of their value.

NOVEMBER 12, 1937.

[Enclosure 2—Memorandum]

The American Embassy to the Mexican Ministry for Foreign Affairs

EXEMPTION FROM "4% CAPITAL EXPORT TAX" OF AMERICAN
LANDOWNERS IN THE YAQUI VALLEY

Since the agrarian affectation of their lands, a circumstance over which they have no control, may cause a number of American citizens in the Yaqui Valley to leave Mexico, even against their will,

and will cause others to reduce their operations and consequently their capital requirements, it is assumed that exemption will be granted from the "4% Capital Export Tax" on monies removed from Mexico by such American citizens, whether the sums remitted abroad come from the payments which will be made by the Mexican Government, or from liquidation of their remaining land and other assets through transactions with non-official purchasers.

NOVEMBER 12, 1937.

[Enclosure 3—Memorandum]

The American Embassy to the Mexican Ministry for Foreign Affairs

REPORTED FAILURE TO RESPECT THE PEQUEÑA PROPIEDAD OF AN
AMERICAN-OWNED COMPANY IN THE YAQUI VALLEY

It is understood that the agrarian authorities have failed to respect a *pequeña propiedad* of 100 hectares of irrigated land on behalf of the American-owned Compañía Agrícola Occidental, L. C., Yaqui Valley, Sonora.

This circumstance would appear not to be consonant with paragraphs II and IV of the Presidential Acuerdo of October 27, 1937.³⁶

It seems particularly important that immediate steps be taken for the delivery of the *pequeña propiedad* designated by the Company.

NOVEMBER 12, 1937.

[Enclosure 4—Memorandum]

The American Embassy to the Mexican Ministry for Foreign Affairs

AMERICANS IN YAQUI VALLEY EXPERIENCING DIFFICULTY IN OBTAIN-
ING DATA REGARDING AFFECTED AND INAFFECTABLE LANDS

A report has been received to the effect that the agrarian engineers in the Yaqui Valley decline to furnish or even to show to American landowners, copies of the "actas" relating to the segregation of their lands into (1) *pequeñas propiedades* and (2) lands to be affected, but on which the American owners planted wheat and rice up to and including October 30, 1937, which they are entitled to harvest for their own account.

Under these circumstances, it is impossible for the owners to know what lands or crops they have left or to submit a list of the implements they may desire to sell to the Ejidal Bank.

NOVEMBER 12, 1937.

³⁶ *Ante*, p. 622.

[Enclosure 5—Memorandum]

*The American Embassy to the Mexican Ministry for Foreign Affairs***EXEMPTION FROM "4% CAPITAL EXPORT TAX" OF AMERICAN
LANDOWNERS IN THE YAQUI VALLEY**

Since the agrarian affectation of their lands, a circumstance over which they have no control, will cause a number of American citizens in the Yaqui Valley to leave Mexico, even against their will, and will cause others to reduce their operations and consequently their capital requirements, it is assumed that exemption will be granted from the "4% Capital Export Tax" on monies removed from Mexico by such American citizens, whether the sums remitted abroad come from the payments which will be made by the Mexican Government in accordance with its promises, or from liquidation of their remaining land and other assets through transactions with non-official purchasers.

NOVEMBER 12, 1937.

812.52/2422

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

No. 5694

MEXICO, November 19, 1937.

[Received November 22.]

SIR: I have the honor to refer to my despatch No. 5693 of November 18, 1937, enclosing copies of various memoranda dealing with conditions in the Yaqui Valley which were left with Lic. Beteta by Mr. Boal on November 15, 1937.

Lic. Beteta said that his information secured from Lic. Gabino Vázquez, the head of the Agrarian Department, was that everything was proceeding smoothly in the Yaqui Valley. However, Lic. Beteta said that it was evident that there was a conflict of information on this subject. He said that he would take up immediately the points mentioned in the memoranda. In principle he saw no reason why the American landowners should not be allowed to select their new unirrigated properties as they deemed best within the area of property available for distribution. He reminded Mr. Boal that the giving of this new land was to be done through a Commission on which the Governor of Sonora would be represented, and said that he would discuss this whole matter with the Department of Agriculture, which was responsible for the new land, with a view to going as far as possible towards helping the Americans in the matter.

Mr. Boal urged upon Lic. Beteta the importance of reëstablishing confidence in the Government among the Americans by promptly

beginning to pay for the work which they had done in preparing the lands which were being turned over to the American farmers and in payment of the agricultural implements. Lic. Beteta telephoned to Ing. Gutierrez Roldán to inquire of the Department of Hacienda regarding the financial situation. He learned from him that he was making arrangements promptly to obtain 400,000 pesos from the Banco Nacional de Mexico; that he was waiting to have this sum in hand to return with it to the Yaqui Valley and to begin payments.

Mr. Boal suggested that it would be better rather than to wait until all estimates were concluded to begin payments if they would start case by case to estimate the work of preparation of the land and the value of the implements, making payment on each case without waiting for the next. Prompt payments of this description might tend to improve the feeling in the Valley, he thought. Lic. Beteta said that he would recommend this procedure with a view to expediting payment. He said that no doubt where payments were made by Government "pagares" (notes) they could be discounted at once by the recipients at the Banco Nacional de Mexico. He said, however, that the Department of Hacienda had been having some difficulty with the local banks, whose collaboration in the matter they had desired.

Lic. Beteta said that he realized that from time to time difficulties of a detailed character might arise and asked that Mr. Boal get in touch with him promptly as these things came up, so that an effort might be made to straighten them out.

Respectfully yours,

JOSEPHUS DANIELS

812.52/2535

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

[WASHINGTON,] December 14, 1937.

Participants: Mexican Ambassador
Mexican Minister of Finance, Dr. Suarez
Mr. Welles
Dr. Feis ^{36a}
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

^{36a} Herbert Feis, Adviser on International Economic Affairs.

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. 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 on 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 [*sic*] 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 ad-

ministration 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 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.

812.52/2520

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

No. 5883

MEXICO, December 23, 1937.

[Received December 28.]

SIR: I have the honor to enclose herewith a copy of the conversation on the Yaqui Valley situation between Licenciado Beteta and Mr. Boal, which took place yesterday morning.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure]

Memorandum of Conversation, by the Counselor of Embassy in Mexico (Boal)

MEXICO, December 22, 1937.

In the course of the conversation with Licenciado Beteta this morning he mentioned the question of the Yaqui Valley saying that a new and awkward development had arisen there. His Government had promised ours that the American landowners who had lost property there would get free water for their small properties and free water for the land to be given them. The free water in the latter case would be given upon completion of the dam and irrigation works. The Minister of Agriculture now told him that this would practically eliminate revenues from land which in fact belongs to the Government and therefore he did not see how the Government could continue to exist if it undertook to give free water to the Americans. Of

course they would also have to give free water to the Mexicans and others from whom land had been taken in that area. Licenciado Beteta stated that this created a serious problem which he intended to discuss with the President. He realized that it would be wrong and most prejudicial for the Mexican Government to endeavor to withdraw from its commitment. Instructions had been issued, he said, to the Richardson Construction Company to give the Americans free water and the Company had countered with the proposition that they turn the Company over "lock, stock and barrel" to the landholders and let them run it themselves; the landowners had refused to accept the Company. I pointed out that such a proposition would not be a substitute for the Government's commitment to provide free water. Licenciado Beteta admitted this. He said that if the Government had to subsidize the Company it would cost the Government about three hundred thousand pesos a year. He also said that there was a difficulty in that the agrarians had to pay for their water and they would be upset if they felt that the Americans were getting their water free. He believed that this might be handled by having the Americans continue as they are doing now, to send them "pagares" (promises to pay) for their water and then instead of the Company collecting these, having them receipted and returned and having the Government make them good to the Company as payment of agrarian indemnity. Some such system he thought might be worked out until such time as the new dam came into operation at which time presumably the whole water system of the Valley would be revised. He remarked that free water to the landowners would result, in a few years, in their having in fact acquired much more value than that of their properties. I reminded him that when he discussed the matter before, the suggestion of free water had been made with the idea that it would be a perpetual right going with the land and would increase the sales value of the small properties and new lands to be given as part compensation of the lands that had been given to the *ejidos*.

Licenciado Beteta said that assuming that there were forty-six Americans in the Valley with one hundred hectares apiece, and that these lands were worth \$100.00 pesos an hectare, the total value of the land would be \$460,000.00 pesos whereas the three hundred thousand pesos a year that the Government would have to contribute to keep the water company going represented the interest on around ten million pesos.

I told him that I was not in a position to give him any estimate of the sales value of the small properties per hectare. However, it might be that it would be more economical for the Government eventually

to buy these small properties at a fair price thereby solving their water problem. He seemed to think that this might be the case; for the time being he said he would discuss the matter with the President with a view to arriving at an adjustment which would provide the landowners with the free water promised to them.

He showed me a map of the Yaqui and pointed out that the only land which could be irrigated by gravity lay to the South West of the present irrigated area and had presumably been given to the agrarians. He said that this dotation was only provisional, and he expected to discuss with the President a readjustment since this was the type of land that had been promised to the Americans in compensation. He would ask, he said, that the Americans be requested by the local representatives of the Company that each one indicate the location of compensation lands they would prefer; they would then see if it would be possible to satisfy them.

The reports on conditions in the Yaqui to which he referred during this conversation had been given him by Gutierrez Roldan who has apparently returned from the Yaqui.

MEXICO, December 22, 1937.

CONCERN OF THE UNITED STATES RESPECTING DIFFICULTIES EXPERIENCED BY AMERICAN PETROLEUM INTERESTS IN MEXICO "

812.6363/2943 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, July 2, 1937—6 p. m.

[Received July 3—5:04 a. m.]

175. My air mail despatch No. 4892, June 17th, 1937.³⁷ This morning's *El Nacional* reports that a decree is in preparation providing that each company or person that exploits the subsoil of Mexico in the realm of petroleum is obligated in the future to pay royalties to the Federal Government in accordance with article 27 of the Constitution.³⁸

Huasteca Oil Company has been given 6 days notice by workmen of the Cerro Azul fields that a general strike of its workmen in that area will be declared as a result of its dismissal of 20 workmen who resorted to acts of violence against 2 company employees, see my despatch 4954 of June 26th.³⁹

BOAL

³⁷ For previous correspondence see *Foreign Relations*, 1935, vol. iv, pp. 764 ff.

³⁸ Not printed.

³⁹ *Foreign Relations*, 1917, pp. 951, 955.

812.6363/2943 : Telegram

The Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, July 3, 1937—2 p. m.

129. Your 175, July 2, 6 p. m. Please keep Department promptly informed of developments.

Press despatch in today's *New York Times* dated at Mexico City July 2 indicates that proposed decree would require payment of royalties on properties covered by confirmatory concessions issued to American companies in accordance with the so-called Morrow agreement.⁴⁰ Obtainable information on this point should be cabled briefly without delay.

HULL

812.6363/2944 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, July 6, 1937—5 p. m.

[Received July 7—2:05 a. m.]

177. Department's 129, July 3, 2 p. m. Informal intimations from Beteta⁴¹ are that proposed decree will require payment of percentage of the value of all oil production whether out of land covered by original concessions or confirmatory concessions. It is reported without confirmation that a figure of about 10% of the gross value of production is being considered.

In the course of an informal conversation with Licenciado Villalobos, Minister of Labor, yesterday he informed me that he is making efforts to avoid strike in Cerro Azul fields and is hopeful of a satisfactory outcome.

BOAL

812.6363/2945 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, July 7, 1937—3 p. m.

[Received 8:30 p. m.]

179. My 177, July 6, 5 p. m. Lockett⁴² learns confidentially from General Sanchez Tapia⁴³ that proposed petroleum decree is now at Presidency awaiting signature and therefore its publication may be

⁴⁰ See *Foreign Relations*, 1928, vol. III, pp. 292 ff.

⁴¹ Ramon Beteta, Mexican Under Secretary for Foreign Affairs.

⁴² Thomas H. Lockett, Commercial Attaché.

⁴³ Rafael Sanchez Tapia, Mexican Secretary for National Economy.

expected at any time. The General stated that in accordance with the Bucareli Treaties⁴⁴ the American and Mexican Governments had recognized Mexico's rights of ownership of the subsoil and at the same time the inherent right to tax petroleum production. He believed that the petroleum companies would fare much better in the future if the Government were a "partner" in the development of the subsoil. With the Government receiving a portion of the production it would have a direct interest in encouraging production instead of withholding it as in the past few weeks. It would also be to the Government's interest to effect rapid and just settlement of labor difficulties. Under the new decree the Government would give every assistance to the petroleum companies in an effort to secure as large a production as possible. There should be no objection to the new decree as production would increase rapidly. The Government's royalty would be 10 percent of gross wellhead production up to 1000 cubic meters, 12½ percent from 1000 to 2000 cubic meters, 15 percent from 2000 cubic meters payment to be made in petroleum. Royalties are to be applicable to all production from the day on which the decree becomes effective including that from confirmatory concessions. Failure to do as required under the new law will cause the subsoil rights to revert to the Government. It is believed work requirements under the new decree will be applicable to confirmatory concessions but this is as yet unconfirmed.

Indications are that petroleum companies are preparing to oppose the signature of the decree as they consider it a heavy burden. The Government's royalty should run from 4 to 5 million barrels a year. It is not yet definite whether the new decree will apply to the National Petroleum Administration.

BOAL

812.6363/2945 : Telegram

The Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, July 9, 1937—5 p. m.

134. Your 179, July 7, 3 p. m. Please refer to the memorandum transmitted with the Embassy's despatch 2450 April 12, 1935,⁴⁵ from which it appears that the then Mexican Foreign Minister stated to Ambassador Daniels that there was no thought of withdrawing from the position taken by the Mexican Government in respect of the so-called Morrow arrangement which he considered to be a finished chapter.

⁴⁴ *Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923* (Washington, Government Printing Office, 1925), pp. 53 and 59.

⁴⁵ *Foreign Relations*, 1935, vol. iv, p. 766.

The Department hopes that no action will be taken by the Mexican Government which would reopen the controversial discussions of 1926⁴⁶ which the Morrow arrangement was intended permanently and amicably to dispose of, since from press reports it would appear that the proposed decree will not only deal with royalties but will upset the Morrow arrangement. In order that the Mexican Government may be made aware of our deep interest in the proposed decree, the Department authorizes you, should you see no objection, through informal and friendly contacts with the appropriate Mexican authorities to endeavor to obtain further specific information regarding the nature of the proposed decree and to induce them to realize that any action such as that now rumored the Government is considering taking would probably lead to a revival of the petroleum controversy, which this Government is most anxious to avoid. See Department's instruction 673, March 23, 1935, for guidance.⁴⁷

HULL

812.6363/2947 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, July 10, 1937—5 p. m.

[Received 11:25 p. m.]

184. Department's 134, July 9, 5 p. m. I have just had a long and entirely informal talk with Beteta and as a result of this have decided not to deliver the letter which I read to Tanis⁴⁸ over the telephone this morning. Beteta believes that the petroleum decree will not be promulgated immediately but may await settlement of the labor controversy between the petroleum companies and their workers. I have arranged that I will give him a very brief memorandum on the morning of July 12, simply pointing out that press reports in the United States have given the impression that the understanding in the settlement of the petroleum difficulties reached with Ambassador Morrow is about to be nullified by a new petroleum decree, and saying that the Embassy, in order to know how such reports might be dealt with would be grateful for information. Beteta will then see the President with a view to obtaining this information. In view of the enclosure to my despatch No. 4993, July 7,⁴⁹ and the information already transmitted in my 179 of July 7 it would be useful if the Department could furnish the Embassy with its views as to the exact scope of the Morrow arrangement. It may be important to determine whether requirement

⁴⁶ See *Foreign Relations*, 1926, vol. II, pp. 605 ff.

⁴⁷ *Ibid.*, 1935, vol. IV, p. 764.

⁴⁸ Richard C. Tanis, Assistant Chief of the Division of the American Republics.

⁴⁹ Not printed.

of a more intensive degree of exploitation in confirmatory concessions under penalty of reversion of subsoil rights to the Government would be considered by the Department to be a breach of the Morrow arrangement.

Mail report follows.

BOAL

812.6363/2947 : Telegram

The Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, July 12, 1937—7 p. m.

138. Your 184, July 10, 5 p. m. The Department is making a study of the points raised in your telegram. Meanwhile your attention is invited to Embassy's despatch 245 January 11, 1928⁵⁰ and its enclosure, and its despatch 474 March 27, 1928⁵¹ and its enclosures.

HULL

812.6363/2951 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, July 14, 1937—4 p. m.

[Received 8:05 p. m.]

185. My 179 of July 7, 3 p. m., and 184 of July 10, 5 p. m. Beteta asked me to come to see him and told me informally that he had been looking into the situation regarding the petroleum conditions with the Department of National Economy. It appeared that no early legislative action which he would consider as affecting the Morrow arrangement was now contemplated but that administrative action might be taken to obtain a tax or royalty from the petroleum companies and to prevent Mexico from becoming a petroleum "reserve," that is, to cause the companies to exploit more fully the properties which they hold. He said that in view of this and of his knowledge of the President's mind he thought it best if I agreed not to take up with the President at this time the subject of my memorandum as reported to the Department in my 184. He said further that he would try to inform me ahead of time if any move for new important legislation in petroleum matters became imminent. I told him that of course I did not wish to ask him to go against his best judgment.

He then said he wanted to tell me confidentially of measures which the Government contemplated taking against the Huasteca Petroleum

⁵⁰ Not printed.

⁵¹ *Foreign Relations*, 1928, vol. III, p. 300.

Company. The Government, he said, intended to proceed against that company for evasion of taxes over several years period and amounting to several million dollars on petroleum from the Cerro Azul fields. The Government would take one of three courses; either (1) what is known as *económico coactivo* action which might involve taking administrative possession of the company's holdings or (2) a regular suit in court subject to *amparo*, et cetera, or (3) penal procedure against the company for fraud. He did not know yet which of the three courses will be followed but wanted us to know ahead of time what was contemplated.

Referring to Department's 138 of July 12, 7 p. m., it would seem from the above that it is important to determine whether administrative action (possibly by Presidential "acuerdo") levying royalties on the companies and penalties (in the sense of my 179) if they do not more fully exploit the properties to which they hold concessions is to be considered as contrary to the Morrow arrangement.

BOAL

812.6363/2954

Certain American Oil Companies to the Secretary of State

MEMORANDUM CONCERNING THE PRESIDENTIAL DECREE TO AMEND THE
OIL LAW

The undersigned American oil companies operating in Mexico come to submit the following state of affairs to the consideration of the Honorable Secretary of State in connection with the above-mentioned proposed presidential decree.

If the decree becomes a law, the oil companies will be compelled to pay a royalty upon the oil produced, based on a sliding scale of 10% for the first thousand cubic meters, 12.5% on the next thousand cubic meters, and 15% upon all oil produced over 2,000 meters. This royalty will be collected upon oil produced under confirmatory concessions issued and to be issued under pre-existing laws, as well as upon ordinary concessions issued and to be issued. The oil industry in Mexico is already heavily burdened with taxation, and the additional load of these royalties will make the continuance of operations extremely problematical, especially as the industry is now operating under a price-fixing governmental system.

The decree would also authorize the government to force the development of areas held in reserve by private landowners under confirmatory concessions.

The presidential decree, if enacted, will not only impair valuable, vested property rights held by the undersigned American companies

under pre-existing laws of Mexico and decisions of the Supreme Court of that country, but will do violence to the understanding entered into between Ambassador Morrow, on behalf of the United States, and President Plutarco Elias Calles, then President of Mexico, as well.

The legal aspect of the case is without difficulties, and it cannot be contended with any show of reason that the decree would not impair vested property rights of American citizens in Mexico.

The subsoil rights of American citizens in lands in the Republic of Mexico were the subject of diplomatic correspondence between our government and that of the Mexican republic over a number of years, which led to the Payne-Warren agreement,⁵² wherein President Obregon, acting through his representatives, recognized those property rights which were acquired prior to May 1st, 1917, the date upon which the present Constitution of Mexico was promulgated. The Payne-Warren agreement was based upon repeated decisions of the Supreme Court of Mexico, in The Texas Company case⁵³ and others,⁵⁴ upholding the subsoil rights of American citizens and others,—rights which were declared by the Court to be equal to other property rights and could freely pass by inheritance or conveyance. The Supreme Court held that Article 27 of the Mexican Constitution,⁵⁵ which relates to public lands and subsoil rights therein, was not retroactive; and that the landowners who had performed a positive act, manifesting an intention to exploit the oil in the subsoil of the lands, prior to May 1, 1917, held vested subsoil rights under Mexican laws, and were entitled to the protection accorded by Article 14 of the Mexican Constitution. Article 14 declares that no law shall be given retroactive effect to the prejudice of anyone, and, in effect, that no one shall be deprived of his life, liberty, properties, possessions, or rights without due process.

Notwithstanding the agreement with the Obregon government, the Congress of Mexico enacted an oil law on December 29, 1925,⁵⁶ which would have compelled those holding subsoil property rights acquired prior to May 1st, 1917, to surrender those rights and take in lieu thereof a concession under the oil law for a limited number of years, not to exceed fifty, and subject to the provisions of that law. The issue thus presented was finally adjusted by the intervention of our government, through Ambassador Morrow, who arrived at an under-

⁵² See *Foreign Relations*, 1923, vol. II, pp. 522 ff.

⁵³ For the text of this decision, see *ibid.*, 1921, vol. II, p. 464.

⁵⁴ For four *amparo* cases instituted by the International Petroleum Company and the Tamiahua Petroleum Company, see *Estados Unidos Mexicanos, Semanario Judicial de la Federación* (Mexico, Antigua Imprenta de Murguía, 1922), quinta época, tomo x, p. 1308.

⁵⁵ Constitution of the United Mexican States, 1917; for text, see *Foreign Relations*, 1917, pp. 951, 955.

⁵⁶ Mexico, *Diario Oficial*, December 31, 1925.

standing with President Calles, in which the principle of the Supreme Court in the Mexican Petroleum Company case was accepted. The decision of the Court in this case was to the effect that the Congress could not limit the landowner's right in the subsoil to a term of years, nor impose the conditions of the oil law upon him if he had performed the "positive act" mentioned in The Texas Company case prior to May 1st, 1917.

Pursuant to the agreement entered into with Ambassador Morrow, President Calles obtained from the Congress of Mexico amendments to the oil law of December 29, 1925, by which subsoil rights of surface owners in combustible minerals, acquired prior to May 1st, 1917, through the performance of "positive acts", were expressly recognized without limit as to time, and the recognition of these rights was to be made through confirmatory concessions issued without cost to the concessionary; and confirmatory concessions to the lessees of the surface owners were to be issued under the law for the full term provided in the leases and extensions thereof, this also without cost to the concessionarys.

Many confirmatory concessions have already been issued, but a considerable number of applications have not yet been acted upon. The vested rights acquired in conformity with pre-existing laws and the decisions of the Mexican courts are as valid and binding in the cases in which confirmatory concessions have not yet been issued as they are in those in which they have already been issued. To disregard these rights would not only do violence to the constitutional precepts already referred to, but would constitute a breach of faith upon the part of the Mexican government, which faith was pledged by President Calles in his understanding with Ambassador Morrow. And this goes to that part of the decree which would authorize the government to compel the landowner to exploit the lands held by him in reserve, as an unreasonable interference with property rights.

The oil law of 1925 provides for the issuance of ordinary concessions to those who have made application therefor within the time prescribed in the law. No royalty is required to be paid to the government under these concessions, though a royalty of not less than 5% must be paid to the surface owner, as well as such damage as may be caused to his surface rights. Many such concessions have been issued, and a number of applications are still pending. It may be conceded that insofar as ordinary concessions yet to be issued are concerned, the Congress is free to withhold them or to impose new conditions upon them, but the case is not the same when we come to ordinary concessions already issued. In these cases the concessionary has a vested right to the subsoil under the terms and conditions of the law

in force when the right was obtained, which cannot now be impaired without doing violence to the provisions of the Mexican Constitution against retroactive laws and against the denial of due process.

We respectfully call the attention of the Honorable Secretary of State to the important fact that the companies we represent, relying on the plighted good faith of the Mexican government, manifested in the understanding between Ambassador Morrow and President Calles, have invested many millions of dollars in the development of their oil properties, and to require them now to accept the additional burden of royalties and other provisions of the decree would not only deprive them of their property rights but would impose upon them heavy financial losses and irreparable injury. We earnestly ask that the Honorable Secretary of State use his good offices with the Mexican government to prevent this act of manifest injustice.

Respectfully submitted,

MEXICAN GULF OIL COMPANY

By Wm. T. Wallace

Its *Vice-President*

MEXICAN SINCLAIR PETROLEUM CORPORATION

By A. E. Watts

President

PENN MEX FUEL COMPANY

By J. Lucas

Vice-President

HUASTECA PETROLEUM COMPANY

By Fred H. Kay

Its *Vice-President*

STANDARD OIL COMPANY OF CALIFORNIA

By Frank Feuille

NEW YORK CITY, July 14, 1937.

812.6363/2956

The Chargé in Mexico (Boal) to the Secretary of State

No. 5036

MEXICO, July 15, 1937.

[Received July 17.]

SIR: I have the honor to refer to my telegram 184 of July 10, 6 [5] p. m., and to enclose for the Department's information a copy of a memorandum which I sent to Licenciado Beteta on July 12, and also a memorandum of my conversation with him on July 10.

It seems obvious that the Mexican Government is determined to levy a heavy tax on petroleum production in Mexico, to be taken in kind,

and that, anticipating that the companies might restrict their production still further as a counter-move, they expect to couple with this tax provisions which will make it mandatory upon the companies to exploit as fully as practicable the petroleum land which they hold under concession.

In effect, the proposed tax—as reported in my telegram 179 of July 7, 3 p. m.—is intended to bring about a benefit to the Mexican Treasury somewhat similar to the loan which the Minister of Finance originally attempted to secure from the oil companies, with the difference that the contribution would be a continuing process from year to year.

There seems to be no doubt that the Mexican Treasury is in dire need of funds to meet the expenditures incidental upon the Mexican Government's program of public works, agrarian reform, etc. This primary need of the Treasury is probably the driving force behind the Government's determination to obtain a greater part of the profits from oil and to make sure that these profits will be substantial.

It is possible that this attitude is strengthened by some belief that, in the event the Government should take over oil properties, it can obtain the necessary technicians and advice to enable it to develop the fields and sell the oil, not only in Mexico but also abroad.

The Mexican Government is obviously considering accomplishing its objectives by means of administrative measures rather than by new legislation. As a matter of fact, there would appear to be little actual difference between a presidential *acuerdo* setting up administrative provisions and a decree-law, except that the petroleum companies, in the case of the former, might have—in theory at least—more legal recourse to the courts for *amparo*, etc., than in the event new legislation is created to govern the situation. (See our despatch 2642 of June 12, 1935 ⁵⁷—last paragraph of enclosure.)

As reported in my telegram 185 of July 14, 1 p. m., the Government's investigation of the Huasteca Petroleum Company in connection with its labor difficulties (see my despatch 4954 of June 26, 1937 ⁵⁷) has apparently turned up some indication of tax evasions on products from the Cerro Azul fields. Action against the company is apparently to be taken, and it is conceivable that this may operate as a lever to cause the company to accede to the Government's wishes in royalty and production matters.

It may be of interest to note that yesterday Mr. Bradbury, representing the Gulf Oil Company, through Consul General Stewart made an appointment to call on me today, and at the same time indicated to the Consul General that he understood that the American petroleum companies primarily interested in Mexico were asking the Department to formulate a strong protest to the Mexican Government with regard

⁵⁷ Not printed.

to the present position of American companies with interests in Mexico.

Respectfully yours,

PIERRE DE L. BOAL

[Enclosure 1]

*Memorandum by the American Chargé (Boal) of a Conversation
With the Mexican Under Secretary for Foreign Affairs (Beteta)*

[MEXICO,] July 10, 1937.

Following the receipt of the Department's telegram 134 of July 9, 5 p. m., 1937, and after talking with Mr. Tanis at the Department by telephone, I called this morning at 11:30 on Licenciado Beteta at the Foreign Office.

I told Licenciado Beteta that the American newspapers had carried stories of the new petroleum decree which I had mentioned to him for some days, but the publicity conveyed the impression that the new decree would alter the state of affairs resulting from the conversations between Ambassador Morrow and the Mexican Government. In view of the large number of American investors in the petroleum industry in Mexico, this report could not fail to have repercussions, and I thought it would be helpful to both Governments if we could know precisely whether the Mexican Government is indeed planning to change this state of affairs and in what way and to what extent.

Licenciado Beteta said that he would speak quite informally and personally, as he usually had in the past. He appreciated, of course, the situation and was, as always, anxious to coöperate. However, the Mexican officials were apt to be very susceptible and might easily draw the inference from any inquiry that our Government assumed some right to dictate the conditions under which the petroleum industry should operate in Mexico, even though nothing of the kind were in mind. They always felt that it was up to them to defend themselves against any charge that they were too open to influence from our Government. He knew, he said, that the President was inclined to feel this way.

I said that I understood this difficulty, but that what I had in mind was simply that where the interests of a considerable number of citizens were affected either Government would be interested in knowing what was on the way. Such an attitude was in harmony with the maintenance of good understanding and should operate to prevent the feeling that surprise measures were apt to be sprung at any moment by one Government which might affect its relations with the other. To make my point clear to Licenciado Beteta, I asked him to consider what the reaction here would be if some important

measure vitally affecting extensive Mexican interests were taken by our Government without the slightest previous knowledge of the Mexican Government. I told him I always assumed that it would be best to envisage difficulties which seemed to be arising before they became acute, with a view to seeing where we were going before irrevocable positions were taken and an issue was created. Relations between the United States and Mexico had improved steadily in the past few years and I thought that everything possible should be done, informally if necessary between the two Governments, to protect the progress achieved.

Licenciado Beteta said that he quite agreed that relations had never been better, and he certainly realized the benefit to both Governments that this situation constituted. However, he doubted whether our Government would be willing to let the Mexican Government know what laws it might have in preparation affecting Mexicans until those laws had actually been enacted. For instance, in the realm of State legislation, he felt that laws which might be contemplated by the Texas Legislature which would affect the status of Mexicans there would never be made known to the Mexican Government until they had become effective.

I expressed some surprise at this. I said that both in State Legislatures and the Federal Congress projects of laws were publicly introduced and were available in published records usually for a considerable period before they were enacted. The discussions of these projects on the floors of the legislative bodies was also a matter of public record. Thus, any foreign government had ample opportunity to study the proposed legislation and there had been many instances when such governments had seen fit to present their views on pending legislation to the State Department.

I pointed out that in Mexico, however, legislation by decree could be and often was enacted with no knowledge of the terms of the legislation being made public until the law actually became operative. The recent decree nationalizing the railways was an example of this type of "surprise legislation".

Licenciado Beteta said that he realized the force of the point I had made. He thought, however, that in tariff matters in the United States nothing was known ahead of time and the expression of views of foreign governments was not welcomed by our Department.

I said that although I had no recent data, I was under the impression that, informally at least, foreign governments had often expressed themselves regarding tariff questions, and that even discussions of tariff matters had taken place. Tariff adjustments were often the result of public hearings.

Licenciado Beteta said: what about treaties? Treaties with foreign countries which might affect a third country were often kept confidential until the treaty was promulgated.

I replied that in that instance perhaps we were on somewhat different ground, since the negotiation of a treaty involved another country.

Licenciado Beteta said: yes, he realized that treaties were not properly comparable to domestic legislation.

He then added that he had never been quite clear in his mind as to just what the Morrow agreement involved and asked what my views on this matter might be.

I told him that it was my understanding that Ambassador Morrow and the Mexican Government had been faced with certain difficulties regarding the status of the holdings and operations of the petroleum companies in Mexico in which there was an American interest, and that steps had finally been worked out by which these difficulties were settled on what was supposed to be a definite and permanent basis.

Licenciado Beteta said: yes, that was his understanding, and that he was under the impression that the legislation now being considered would upset this settlement and therefore change the agreement. He himself was in sympathy with such a change. He did not believe that any understanding should be eternal and in the present case it was important, he thought, to prevent the petroleum companies from making a "reserve" of Mexico, instead of exploiting Mexico's petroleum wealth to its full capacity. He said he had knowledge of an agreement which had been made some years ago in Europe between the petroleum companies, limiting the amount of petroleum which might be exploited in Mexico. Accordingly, Mexico was being kept as a reserve instead of being developed. This he thought was contrary to the best interests of the Mexican people and steps should be taken to prevent it. He said, however, that he believed the projected oil decree was not immediately to be brought out, but would await settlement of the labor difficulties of the petroleum companies (I presume he meant the investigation being conducted by the Federal Board of Conciliation and Arbitration No. 7, which is supposed to reach a finding by July 29th).

He then said that if I would write him a brief memorandum of inquiry based on the press reports, he would take the matter up with the President and would endeavor to put it in such light that there would be no feeling that we were claiming any right to dictate Mexico's legislation, but rather in the light in which I set it forth to him—to see whether the President would be willing to advise us of what was in mind. He said, rather significantly, that of course the President might be reluctant to give us information on measures which might be changed, thus unnecessarily giving us concern.

[Enclosure 2]

The American Embassy to the Mexican Ministry for Foreign Affairs

MEMORANDUM

Press reports appearing in the United States give the impression that a new Decree regulating the petroleum industry in Mexico is about to be promulgated and that this Decree will not be in harmony with the settlement of various petroleum questions reached with Ambassador Morrow.

In view of the extensive financial investment of a great many American citizens in certain of the petroleum companies in Mexico, such reports are apt to have considerable repercussion, and it would be helpful if the Embassy were in a position to inform its Government as to the accuracy of such reports and the nature of such steps as may be contemplated.

MEXICO, July 12, 1937.

812.6363/2963

Memorandum by the Chief of the Division of the American Republics (Duggan)

[Extract]

[WASHINGTON,] July 20, 1937.

Mr. Welles spoke to the Mexican Ambassador about the pending petroleum decree when the Ambassador called to say good-by yesterday morning. Mr. Welles informed the Ambassador that we most earnestly hoped that the Mexican Government would take no action with respect to petroleum that would reopen or upset the so-called Calles-Morrow arrangement. In view of his conversation, and in view of Mr. Boal's comment to me on the telephone July 17 that consideration of the oil decree seems to have been deferred for the moment, Mr. Welles does not believe that the Embassy in Mexico City should be instructed to take any further action vis-à-vis the Mexican Government in this matter.

■ ■ ■ ■ ■ ■ ■ ■
L[AURENCE] D[UGGAN]

812.6363/2968b : Telegram

The Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, August 2, 1937—7 p. m.

160. Your confidential letter to Welles of July 23.⁵⁸ The Department fully appreciates the desire and need of the Mexican Govern-

⁵⁸ Not found in Department files.

ment for additional funds and has approached the subject of the proposed petroleum decree with that understanding and with a desire to be as helpful as possible.

As the Mexican Government will recall, the petroleum question provoked a bitter controversy which at one stage even endangered the friendly relations between the two countries. After years of fruitless wrangling the two Governments made a new approach to the matter, and with good will on both sides and a desire to settle the matter for all time, arrived at a settlement reasonably satisfactory to the oil companies and in conformity with the Mexican Constitution of 1917 as interpreted by the Supreme Court of Mexico. This long-standing dispute having been interred, the Department earnestly hopes that the Mexican Government will take no action that would reopen it.

Although handicapped in considering the proposed petroleum decree because it is not informed of its exact provisions, nevertheless a very careful study has been made of the history that led up to the Morrow arrangement and of the terms of that settlement. It appears to the Department, in all frankness, that a requirement that the holders of confirmatory concessions perform the regular work provided in Article 69 of the petroleum regulations,⁵⁹ would unquestionably result in a reopening of the Morrow arrangement. The 1928 settlement included the modification of Article 156 of the petroleum regulations so as to relieve the holders of confirmatory concessions from the requirement of producing the minimum amount of oil mentioned in Article 69. Accordingly, it would appear that, so far as concerns confirmatory concessions they are not covered by the provisions of Article 17 of the petroleum law that "failure to perform regular work in the manner prescribed by this law" shall be a cause for forfeiture of a concession.

Therefore, with respect to increasing production the Mexican Government may wish frankly to lay before the petroleum companies holding confirmatory concessions its reasons for desiring an expansion of production and to request their cooperation. If the companies approach the Department regarding this matter the Department will do all it appropriately can to urge them to adopt a cooperative attitude and to endeavor to work out an arrangement which will permit expansion of production on an efficient basis.

If the proposed decree will compel the oil companies to pay a royalty upon the oil produced, it would seem that there is good ground, so far as properties held under confirmatory concessions or entitled to such concessions are concerned, to maintain that it would

⁵⁹ *Ley del Petroleo y su Reglamento*, Edición Oficial de la Secretaría de Industria, Comercio y Trabajo (Mexico, Tallares Gráficos de la Nación, 1926).

impair valuable vested property rights held by them under pre-existing laws of Mexico and decisions of the Supreme Court of that country, as well as under the so-called Morrow arrangement. This impairment and violation would arise from the imposition of a condition attached to the rights of the oil companies which was non-existent before they were issued, or became entitled to, confirmatory concessions and thus would result in restricting their previous rights which were confirmed or should be confirmed.

On the other hand, should the decree take the form of imposing a reasonable tax on the production of oil the matter might assume a different aspect. The purpose of Article 20 of the petroleum law seems clearly intended to include the owners of confirmatory concessions among those covered by the requirement of the article for the payment of taxes "in coin or in cash" as the executive may choose. There is a general reference to the "taxes levied on the petroleum industry," and discretion is apparently left to the taxing power as regards the nature and extent of such taxes.

It is suggested that you have a full and frank talk with Beteta, or with such other Mexican officials as you believe desirable along the lines of the foregoing. You should not, of course, present these views as the considered judgment of the Department, in as much as the Department has not had the opportunity of studying the precise terms of the proposed decree. However, you may say that the Department has been thinking along the lines above-mentioned and would be inclined to adhere to these views unless the provisions of the proposed decree are divergent from those which the Department understands it now contains.

HULL

812.6363/2973 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, August 4, 1937—8 p. m.

[Received August 5—8:20 a. m.]

215. Your 160, August 2, 7 p. m. Committee of experts investigating economic condition of petroleum companies presented its report to Arbitration Board on the night of August 3.⁶⁰ Principal points contained therein are that oil companies have never been linked to the country and their interests have always been alien and at times

⁶⁰ See "Report Submitted to the Federal Board of Conciliation and Arbitration in the Conflict of Economic Order in the Petroleum Industry," in *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* (Government of Mexico, Mexico City, 1940), p. 5.

even opposed to national interest; companies have left in the Republic only salaries and taxes without having cooperated in social progress of Mexico; that majority of companies recovered their invested capital more than 10 years ago; that on more than one occasion they have influenced national events; that oil camps in Mexico are about to be exhausted except Pozarica and El Plan; that exploration of new fields is a great national problem which must be solved, otherwise there is danger that Mexico will be obliged to import petroleum in relatively short period; that Aguila represented 59.33 per cent of total production in 1936 which tends toward monopoly; that prices of products sold in Mexico are higher than those sold abroad; that prices of petroleum products in Mexico are so high that they constitute an obstacle to economic development of nation; that annual average capitalization of defendant companies except Mexican Gulf was 164,000,000 pesos during the period 1934-1936; that annual average invested capital not amortized, except Mexican Gulf, was 335,000,000 pesos during the period 1934-1936; that average reserves and profits of defendant companies, except Mexican Gulf, during the period 1934-1936 was 79,000,000 pesos; that average of profit to capitalization, except Mexican Gulf, was 34.28 per cent during the period 1934-1936; that percentage of profit to capital invested, not amortized, except Mexican Gulf, averaged 16.81 per cent during the period 1934-1936; that profits of Mexican companies are higher than those in the United States; that profits of companies have been extraordinarily lucrative during the past 3 years and without prejudice whatsoever to their present or future position, at least during the next few years, they are perfectly able to accede to the demands of the syndicate up to an annual amount of 26,332,756 pesos which recommendations of committee would occasion exclusive of retroactive salaries, construction of hospitals, schools, water works, et cetera; that a mixed national commission be established to decide conflicts arising between company and workmen; that a 40 hour week be established on an 8 hour day basis; that 10 per cent of workmen's salaries be deducted to which companies must place an equal fund for an employees savings fund; that workmen with up to 10 years service should enjoy 21 days vacation annually with pay and 30 days with pay annually for longer term of service; that companies should spend an additional 1 million pesos per year for hospital improvement; that partial, total and death benefits be increased as specified in the report; that pensions be increased as specified in the report; that wages during strike period should be paid and that the minimum wage should be 5.40 pesos a day, whereas minimum offered by companies in effort to settle strike was 2 pesos. Condensed statement of committee's report being forwarded regular mail today. Companies have 72 hours

in which to answer committee's statement. Companies feel that report is severe enough but not as unsatisfactory as had been anticipated. Full text of committee's report will be forwarded promptly.

I had an informal conversation with Beteta today along the lines of Department's telegram 160 of August 2, 7 p. m., of which I am sending a mail report by next pouch. He told me that both Hacienda and Economy felt sure that there would now be no immediate steps taken to bring about objectives of the proposed petroleum decree. However, indirect word has come to Locket from Silva Herzog, financial adviser to Suarez,⁶¹ that Government contemplates increasing taxation on oil companies including National Petroleum Administration, by an additional 6 million pesos yearly.

BOAL

812.6363/2978

The Chargé in Mexico (Boal) to the Secretary of State

No. 5181

MEXICO, August 6, 1937.

[Received August 11.]

SIR: With reference to my despatch 5169 of August 4, 1937,⁶² I have the honor to enclose the first eight volumes (in Spanish) of the findings of the Commission of Experts which has been investigating the economic situation of the petroleum companies in Mexico. These volumes have been supplied to the Commercial Attaché by the Huasteca Petroleum Company and further volumes will be forwarded as they appear. As no second copies are available, none are being retained for the Embassy; it is, however, hoped to obtain extra copies later on.

The companies have until August 10, 1937, to present their observations on the report of the Commission. They intend to do this, taking exception particularly to the Commission's statement of profits, which the companies claim to be in the neighborhood of 18,000,000 pesos rather than the 77,000,000 pesos reported by the Commission. They will also take exception to the Commission's conclusions regarding the role of the companies in the life of the country and to the Commission's recommendations in the matter of wages and social benefits.

On the other hand, the Syndicate is expected to oppose objections to the Commission's findings and recommendations, advancing claims for considerably more than the 26,000,000 pesos which the Commission considers should be the increased cost to the companies for high-

⁶¹ Eduardo Suarez, Mexican Minister for Finance.

⁶² Not printed.

er wages and better social services for the workers. The Syndicate is also expected to object to the number of confidential positions which the Commission's report would allow the companies to retain.

As it will appear from the above, the controversy is likely to drag on for some time to come in hearings before the Labor Board No. 7. In their present mood, it is possible that the strikers will refuse to accept the Commission's recommendations if they are adopted by the Labor Board, so that the possibility of another strike at an early date is not precluded.

It is believed that the Labor Board will begin consideration of findings, comments, and countercomments during the week beginning August 16th. Copies of the companies' and the syndicate's objections will be forwarded to the Department as secured.

Respectfully yours,

PIERRE DE L. BOAL

812.5045/494

Mr. F. C. Pannill of the Standard Oil Company of New Jersey to the Chief of the Division of the American Republics (Duggan)

NEW YORK, August 11, 1937.

[Received August 14.]

DEAR MR. DUGGAN: You will recall that the general strike of petroleum workers in Mexico, which became effective late in May and involved impossible demands, was suspended on June 9; and that the Board of Arbitration and Conciliation, having classified the strike as an economic one, named a Commission of Experts to investigate and report on the question of whether or not the economic position of the oil companies would admit of meeting the demands of the workers.

On August 3, 1937 the Commission of Experts handed down their conclusions and recommendations to the Board of Arbitration.

The findings and recommendations are of such an arbitrary and impossible nature as that the oil companies operating in Mexico will be forced to cease operations if the Board makes a favorable award based on the Commission's recommendations. The companies willingly submitted information and disclosed their records to the Commission but the findings are so far removed from the true facts as to constitute absurdities. In other words, it is apparent that the findings of the Commission are not true findings but are clearly arbitrary and distorted without regard to the facts.

The main findings of the Commission of Experts are as follows:

(1) The principal oil companies operating in Mexico form part of large North American or English economic units.

(2) Interests of the oil companies foreign to and sometimes even opposed to national interests.

(3) Companies have only left in Mexico salaries and taxes and never co-operated in social progress of country.

(4) Companies have obtained enormous profit and invested capital recovered over ten years ago.

(5) Oil interests have influenced national and international politics.

(6) Diminution in production since 1921 due to failure to discover new fields and possibly also determined by policy of companies.

(7) In view of virtual exhaustion of all fields except Poza Rica and El Plan, discovery of new reserves now critical national problem.

(8) Sixty per cent of Mexican production exported to England and the United States.

(9) Salaries of oil workers inferior to mining and railway workers and reduced over 16 per cent during past three years, compared to cost of living.

(10) Real wages of workers are limited while workers' wages in United States increased 8 per cent in last three years.

(11) Company books show export prices always lower than prices shown by recognized publications which alleged represent true market values.

(12) Domestic prices in Mexico higher than similar prices abroad.

(13) Domestic prices of gas oil 172%; kerosene 341%; gasoline 134%, and lubricants 350% higher than sales abroad.

(14) Domestic prices so high as to hamper national development.

(15) Average profits 1934 to 1936—79,000,000 pesos representing 34 per cent on invested capital as compared six per cent limited states in 1935; other comparisons show oil industry states far less prosperous than Mexico.

(16) Financial situation of oil companies so extraordinarily prosperous that they can easily meet the workers' increased demands up to annual amount of 26,000,000 pesos.

The main points of recommendation by the Commission of Experts are as follows:

(1) Appointment of permanent mixed commission formed by two representatives of labor, two representatives of companies and one of government to decide interpretation of collective contracts, draft regulations, settlement seniority lists, etc.

(2) Payment by companies of special corps of government labor inspectors and certain medical and other special inspectors.

(3) Ambitious programme for cultural, educational and sports activities by employees.

(4) Fixation of confidential posts.

(5) Programme with view replacement all foreign technical staff within two years, involving the immediate employment of Mexican trainees for every foreign technician.

(6) Higher technical education in Mexico or abroad at Companies' expense for limited number of employees or their sons.

(7) Rigid application of seniority rule except for confidential posts.

(8) Provision of houses for all workers even in towns where staff exceeds one hundred and, failing such housing provision, interim payment of allowances of one peso to one peso and a half, dependent on wage.

(9) Sale of all oil products to employees at ten per cent discount.

(10) Rigid application of exclusion clause.

(11) Forty hour week, five day basis.

(12) *Fondo de Ahorros*, ten per cent and six per cent interest.

(13) Twenty one days furlough per annum up to ten years' service, and thirty days thereafter.

(14) In the event of termination of contract, payment three months plus twenty days' salary for each year of service.

(15) Companies to spend additional sum of one million pesos per annum on medical services, independent of sum required to improve present medical facilities.

(16) Eighty per cent wages payable during non-professional illness over four months.

(17) Life insurance policy for each worker, two thousand pesos.

(18) Pensions varying from 65 to 85 per cent after twenty-five years' service to employees over fifty years old.

(19) Minimum daily wages, five pesos throughout the Republic.

(20) One hundred per cent strike pay.

(21) Average 20 per cent increase on wage scale.

From the foregoing it may be readily seen that if favorable award is made by the Board of Arbitration and Conciliation on the report of the Commission of Experts, no basis will be left upon which an agreement may be reached whereby the oil industry in Mexico, as today constituted, could continue to exist.

As you have perhaps noticed from the press dispatches of today, the companies have filed their answer to the report of the Commission. It is now planned that the Mexico City managers of the companies will arrive in New York early next week to make a full report to their principals and later present the situation to the State Department. To the latter end, our Mr. Thomas R. Armstrong has today arranged for an appointment with Mr. Welles for 11 A. M. Wednesday, August 18, at which time the status of the companies will be fully disclosed. In the meantime, I felt that you would be glad to have this preliminary report of the Commission's findings and recommendations.

With kind regards, I am

Sincerely yours,

F. C. PANNILL

812.5045/496

The Chargé in Mexico (Boal) to the Secretary of State

No. 5226

MEXICO, August 16, 1937.

[Received August 17.]

SIR: I have the honor to refer to Mr. Boal's telegram number 224 of August 14, 1937,⁶³ relative to the proposed visit of various members of the petroleum industry in Mexico with Mr. Sumner Welles during the latter part of this week. The members of the petroleum industry will leave Mexico City for New York by airplane today and will thoroughly discuss their Mexican problems in New York before proceeding to Washington. Reports are current to the effect that the New York conference will determine whether or not the petroleum companies will continue operations in Mexico if the suggestions or recommendations of the Committee of Experts should be followed in the decision to be rendered by *Junta* No. 7 of the Federal Board of Arbitration. It is believed that the petroleum situation is now approaching a very definite crisis and, therefore, the petroleum companies are beginning to prepare a case before the Department of State in anticipation of a denial of justice by the courts.

As stated in Embassy telegram number 224 of August 14, 1937, mentioned above, Lockett has secured a copy of the memorandum which will be presented to Mr. Sumner Welles by the representatives of the petroleum companies. A copy is attached hereto, marked number 1,⁶³ in order that Mr. Welles may be previously informed of the object of the visit of the petroleum representatives. It is also believed that the conference with Mr. Welles will be utilized to discuss the entire petroleum situation in Mexico.

For the Department's further information, there is attached a memorandum⁶³ prepared for the petroleum companies by Attorney Luis Cabrera, which sets forth the illegality, particularly referring to the Federal Labor Law, of many recommendations made by the Committee of Experts. This memorandum reinforces the claims of illegality as recorded in the general memorandum, marked number 1, which will be presented to Mr. Welles. Attorney Luis Cabrera's memorandum is attached and marked number 2.

Respectfully yours,

For the Chargé d'Affaires ad interim:

WILLIAM P. BLOCKER

First Secretary of Embassy

⁶³ Not printed.

812.5045/532

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

[WASHINGTON,] August 18, 1937.

Participants: Mr. Thomas R. Armstrong, Standard Oil Co. of New Jersey
Mr. A. M. Anderson, Standard Oil Co. of New Jersey
Mr. W. D. Tschudin, Consolidated Oil Co. (Prairie interests)
Judge Feuille, Standard Oil Co. of California
Mr. Sumner Welles, Under Secretary of State
Mr. Green H. Hackworth, Legal Adviser of the Department of State
Mr. Duggan.

Mr. Armstrong stated that the delegation was calling on Mr. Welles to express its concern at the report of the committee appointed by the National Labor Board to investigate the financial status of the companies in order to determine whether the companies could meet the demands of the workers. Mr. Armstrong stated that he could best set forth the views of the companies by reading a letter. Mr. Armstrong then read a letter addressed to the Secretary of State, which he left with the Department.⁶⁵

After Mr. Armstrong had read the letter Mr. Welles inquired of Mr. Armstrong what action the companies desired. Mr. Armstrong stated that the companies hoped that the Department would approach the Mexican Government and inform it of its concern at the apparent intentions of the Mexican Government to impose burdensome conditions upon the oil industry. Mr. Welles replied that the Mexican Government was already aware of the attitude of this Government, and then inquired what else the companies had in mind. Mr. Armstrong thought that we should have the Embassy request that the decision of the Labor Board be deferred until the Department should have an opportunity to study the case. Mr. Welles stated that the President of Mexico was away from the capital, that he did not think that there was anyone there whom we could approach to advantage, and suggested that a representative of the companies in Mexico might be able to arrange it. Finally, Mr. Welles stated that the only ground for action by the Department would be a denial of justice and asked that the delegation turn over to the office of the

⁶⁵ *Infra.*

Legal Adviser the documents it had brought and discuss the matter with that office. This was done.

LAURENCE DUGGAN

812.5045/506½

*Certain American Oil Companies to the Secretary of State*⁶⁶

The undersigned American companies with oil interests in Mexico respectfully make the following representations to the Honorable Secretary of State:

In May 1937 a general strike in the oil industry was declared in Mexico. For several months the oil companies had been discussing with the labor syndicates (unions) and government representatives the clauses of a proposed labor contract which would have the status of law governing the entire industry, but no agreement was reached during the period allowed for this purpose. The general strike was suspended on June 9th, after the Labor Board, upon request of the Labor Syndicates, agreed to undertake an investigation of the causes of the conflict, the condition of the industry, etc. This body appointed a commission of experts to conduct the investigation and on August 3rd this commission rendered its summary of finding and recommendations.

The report, in its Article 40a, says "Their (the companies') financial situation should be classified as extraordinarily lucrative, and therefore, it can be affirmed that, without prejudice whatsoever to their present or future position, at least during the next few years, they are perfectly able to accede to the demands of the Syndicate of Petroleum Workers of the Mexican Republic up to an annual amount of approximately 26,000,000 pesos".

The report then proceeds to outline the various conditions for which provision should be made in the collective labor contracts, including not only the extra financial and other benefits which the commission deems justifiable and necessary, but also plans for setting up innumerable commissions, composed of representatives of labor and capital, with governmental representative as well, with full power to carry on the operations.

The companies estimate the extra annual cost of operating under the recommendations as 42,000,000 pesos. The total annual net income of the industry at the present time is approximately 20,000,000. pesos.

It has been increasingly apparent that the objective of the Mexican

⁶⁶ Presented to the Department of State by Mr. Thomas R. Armstrong of the Standard Oil Company of New Jersey at the conference of August 18.

Government is to take over the oil industry from the foreign companies. Through regulation and labor awards on the one hand and price fixing on the other, the government has followed a consistent policy calculated gradually to increase the burdens on the industry, in order to bring down the value of the properties to a point where the cost of taking them over would be minimized. The process is obviously one of confiscation by slow strangulation.

If the economic conditions set forth in the findings of the Committee in its report to the Labor Board should be imposed upon the companies it would place the companies in the position of being absolutely unable to continue to operate and they have so stated in their answer filed with the Labor Board. Further, if these demands were imposed, the law permits successive new demands by the Syndicate of Petroleum Workers at any time.

The proposed mixed commission for the petroleum industry and the many sub-commissions would give the Nationals control and would constitute an impossible administrative set-up, since it would eliminate the right of the owners to manage the enterprise. The provisions for disciplining of executives and their ultimate termination would lead to the same end, particularly in view of the fact that under the present law they could not be replaced.

The American oil companies operating in Mexico are gravely concerned over the probability that a favorable award based on the Commission's report will be forthcoming, and cite as basis for their fears the obviously biased report of the Commission. It is believed that this decision will be a repetition of the biased findings of the Board of Conciliation and Arbitration in the case of the Mata Redonda strike of the Huasteca Petroleum Company, which findings were upheld by the Supreme Court. The record of this strike was presented in a memorial filed by the Huasteca Petroleum Company with the State Department on September 21, 1936, and reference is hereby made to the same, because the memorial furnishes proof that the decisions reached both by the Board and the Court were not merely errors of law, but were the reflection of a social bias quite outside the terms of Mexican law, and deprived the Company of its legal rights.

The problem is of the utmost concern, not only to the American oil companies directly involved, but to the United States Government as well. If the objective of the Mexican Government is successfully attained, a precedent will be established which may ultimately deprive the United States of petroleum reserves controlled by American nationals in South America and other parts of the world, in the face of limited proven domestic reserves.

This memorandum and the accompanying data are submitted to the State Department for its information with the request that it

use its good offices to impress upon the Mexican Government its concern over the outcome of the present situation.

Respectfully,

W. W. WILKINSON
California Standard Oil Co. de Mexico
F. C. RANDALL
Penn-Mex Fuel Company
A. E. WATTS
Mexican Sinclair Pet. Corp.
L. L. ANDERSON
Huasteca Petroleum Company
J. W. BALDING
Mexican Gulf Oil Co.

AUGUST 18, 1937.

812.5045/512 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, August 28, 1937—4 p. m.

[Received 8:15 p. m.]

241. In an informal conversation today Ambassador Castillo Najera told me that in accordance with a conversation he had with Mr. Welles in Washington before he left he had discussed the outlook on the petroleum labor difficulties with President Cardenas yesterday. The President told him that he expected to receive the representatives of the petroleum companies to discuss the situation with them, that he expected to take the entire petroleum situation into his own hands with a view to arriving at an early solution, that he would deal with it in his message to Congress on September 1 and would see Ambassador Castillo Najera again on September 2 to give him a further explanation of the subject which he could give to Mr. Welles upon his arrival in Washington.

The Ambassador said that he was under the impression that an adjustment would be reached with the petroleum companies which would settle the matter, that he thought the companies this time were in fact faced with demands which were economically impossible, and that he appreciated that it would be no advantage to anyone to force a rupture which would result in their withdrawal from Mexico and unfortunate repercussions in the United States. He said that he felt sure the President would find a way to extricate the experts from the difficult position into which they had gotten themselves in their report to the Labor Board so that an adjustment could be reached.

The Ambassador said that four representatives of the petroleum companies had called upon him this morning at the Foreign Office that he had seen them only briefly as he did not feel that he had any direct connection with the matter and had asked them to reiterate their telegraphic request for an early interview with the President. He said that he would get in touch with me again as soon as he had further information on the progress of the question.

While I am sure that he will exercise his influence with the President to bring about an acceptable adjustment, I anticipate that for political reasons the President may have to deal unsympathetically with the petroleum companies in his message to Congress on September 1. I anticipate that if an adjustment is reached between the companies and the Government which will dispose of their labor troubles and tend to establish their progress for the future, the Government will seek to accomplish it on a basis of some early payments by the companies to the Government on account of taxes or on some other score which will help the Government meet its present large commitments.

Ambassador Castillo Najera spoke with some emphasis of the importance which he and Licenciado Suarez attach to the reestablishment of Mexican credit in the United States.

BOAL

812.5045/522 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, August 30, 1937—midnight.

[Received August 31—2:55 a. m.]

245. My 241, August 28, 4 p. m. President Cardenas received the representatives of the petroleum companies today. He was alone and was apparently expecting a small delegation of one or more with whom he could speak freely. However, all of the local managers of the companies in Mexico City went, some eight or nine, accompanied by Mexican interpreters. The exchange of views was therefore necessarily more limited than might otherwise have been the case.

The companies' spokesman began by setting forth their views that the experts' recommendations were strongly biased against them and that if they were approved by the Labor Board and placed into effect the companies would have no alternative but to suspend operations. The companies could not afford to exceed the offers they had already made to the workers.

The President replied that he was much concerned over recent press reports from Mexico to the United States indicating that the attitude of the Mexican Government was calculated to drive out foreign capital. He said that it was the purpose of his Government to see that

both labor and capital were treated justly and that it wanted foreign capital to remain in the country although it intended to see that labor received fair treatment. He remarked that Mexico would only consider buying the foreign petroleum interests as a last resort.

He then said that his problems were made much more difficult by the companies' going for support to the Governments or diplomatic representatives of the stockholders' countries. He said that as yet the companies had not exhausted their legal remedies and he appealed to them not to go to their Governments or the local representatives of these Governments until such recourse had been exhausted and had resulted in conviction on their part that they had not been accorded justice.

At this point, Anderson of the Huasteca told him that the representatives of the companies had gone to New York to consult with the representatives of their stockholders in view of the critical labor situation and determine whether operations should be continued if the Labor Board upheld the experts findings and if the stockholders would be willing to invest additional funds in Mexico if occasion required. They had secured a decision authorizing suspension of operations in the event of an unfavorable decision of the Labor Board and a refusal to consider the investment of additional funds from sources outside of Mexico. The President then said that he intended to take the entire petroleum question into his own hands for settlement; that he wished to have further discussion with the committee of the petroleum companies representatives (the committee which had previously dealt with the President consists of two members only, Beckwith of the Standard Oil Company of California and Van Hasselt of the Aguila. However, indications are that to these two will be added a representative of the Huasteca). The President set noon of September 2nd as the date for his interview with the committee. He said he would have the three members of the experts committee there so that there might be a discussion with them of the situation created by the report.

At the end of the interview Anderson set forth the theory that if the Government supported the petroleum labor in obtaining the utmost that the companies could afford to pay it would automatically deprive itself of money for taxes which could be used for the general benefit of all classes of the country instead of for disproportionate benefits to a small number of laborers. Anderson then suggested to him the merits of the excess profits tax in lieu of heavy additional benefits to the petroleum workers. The President replied that he believed that this was a matter very worthy of consideration and that he would give it serious thought.

An account of the interview above-mentioned has, I understand, been telegraphed by the local managers to their New York offices. Our

information of it was secured from Anderson of the Huasteca who comments that the President appeared more worried and harassed than he has ever seen him and that the idea that the Governments of the companies might be disposed to support their rights appeared to cause him serious concern.

Lockett learned today in confidence from the Comptroller of the Treasury that the Treasury is more than able to meet ordinary administrative expenditures (he calculated that by the end of the year the income would exceed original budget estimates by 100 million pesos). However, the Treasury has been exceedingly hard pressed to meet extraordinary expenditures which have been pledged in connection with the President's social program. It appears that in addition to having expended all income received to date the Government has borrowed approximately 8 million pesos from the Bank of Mexico. In other words, as the Comptroller admitted, there is actually a minimum deficit of 8 million. This year the Government expects to have to fill a gap of from 20 to 25 million pesos for expenditures in the Laguna. It is not known how much will have to be spent in connection with the division of lands in Yucatan. At the moment the federal income is diminished due to what the Comptroller called "the abominable handling of the petroleum situation by the Government" and due to the fact as fast as lands are divided the taxes formerly paid to the Government on such lands cease. The Comptroller is going to recommend to the Secretary of the Treasury that the Government closely investigate tax returns of the petroleum companies to catch evasions which he believes exist.

Information which we have received from other sources indicates that if the petroleum companies should cease operations which they have already diminished somewhat in prevision of difficulties the Government's revenue from petroleum sources would drop at least 50%. There are also indications that the companies are certain of controlling all tanker tonnage so that the Government would be unable to market abroad any substantial part of the oil which it might produce.

BOAL

812.5045/576 : Telegram

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

MEXICO, October 20, 1937—2 p. m.

[Received 10 p. m.]

277. President Cardenas received representatives of the petroleum companies on October 18. The delegation was composed of only three men representing Sinclair Pierce, Huasteca, and the Aguila.

The representatives stated that since last November there had been 91 unauthorized strikes in the petroleum industry and that these strikes were demoralizing the workers whose attitude toward the companies and their work was unsatisfactory. They remarked that the experts had emphasized that some companies were selling oil on long term contracts at less than world market prices to their subsidiaries and exhibited to the President documentary evidence to show that this was not being done. Van Hasselt⁶⁷ informed the President that if the experts' recommendations were put into effect by the Labor Board the companies would of necessity have to cease operations. He informed the President that conferences held in New York with stockholders had revealed that the latter were unwilling to put any more money into Mexico if the recommendations of the experts should go into effect.

As they left the President told the representatives that he would take the situation personally into his own hands and would consult with the experts and with Villalobos⁶⁸ to see what could be done. The petroleum representatives said that the interview left them hopeful but not too hopeful. The above information was obtained from them.

DANIELS

812.6363/3028a : Telegram

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

WASHINGTON, November 5, 1937—3 p. m.

218. Please telegraph briefly with respect to report published in *New York Times* today that President Cardenas has decreed nationalization of 350,000 acres of oil lands under lease to Standard Oil of California and Richmond Petroleum Company as part of nationalization of 2,000,000 acres of oil territory in Tabasco, Campeche and Chiapas.

WELLES

812.6363/3029 : Telegram

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

MEXICO, November 5, 1937—6 p. m.

[Received November 6—6:25 a. m.]

287. Department's 218, November 5, 3 p. m. Following information obtained from oil company sources. Decree *Diario Oficial* November 4th transferred to National Petroleum Administration 350,000

⁶⁷ T. B. Van Hasselt, general manager of the Aguila Company.

⁶⁸ Antonio Villalobos, Mexican Minister for Labor.

acres of petroleum land in state of Tabasco on which Richmond Petroleum Company (Standard of California) either held exploration contracts or oil leases. On 250,000 acres of foregoing General Zuazua obtained exploration and drilling contracts from Mexican Government in 1930 which contracts were later ratified by Presidents Ortiz Rubio and Abelardo Rodriguez and by President Cardenas on August 15th, 1936. Zuazua transferred rights under contract to Richmond Petroleum Company after Cardenas' ratification and then company applied to Government for transfer approval. Approval was not given and present decree cancelled contract and returned rights to Petroleum Administration. Richmond Company claims it has fulfilled all provisions of contract and has thereunder until December to commence drilling operations. Company also claims it spent 500,000 pesos this year in geological surveys in preparation for drilling. Land title on remaining 100,000 acres was obtained by Mexican Diversified Land Company (American) in 1909 and applied for confirmatory concession about 1926. In 1930 President Portes Gil signed order for concession but President Ortiz Rubio cancelled order. Company asked for *amparo* before Supreme Court against cancellation of order for concession and company won decision in August 1936. Supreme Court held that order for concession signed by President constituted legal act of authority and issuance of concession was only a notification. Company did not receive signed confirmatory concession. Interest of Richmond Petroleum Company in this case due to the fact that it secured oil rights lease on property from Mexican Diversified Land Company in 1928. Above information furnished to Lockett by Standard Oil Company. The American companies have made it clear to us that they are asking no assistance from the Embassy and that they have not yet decided what legal steps they may take. Air mail report follows.

DANIELS

812.6363/3042 : Telegram

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

MEXICO, November 17, 1937—5 p. m.

[Received 9:15 p. m.]

300. My despatch 5669, November 13, 1937.⁶⁹ American oil companies here feel that Aguila Company and British Government have been cognizant of dealings of Corey Brothers, Stevins and Hardy, and Lambert and Bend all of London and that united front of oil companies with regard to labor difficulties is probably broken. Indications from Foreign Office and other sources are that American com-

⁶⁹ Not printed.

panies may be faced with difficult situation since as a result of Aguila deal the Government's attitude with regard to having Labor Board confirm experts' decision seems to have stiffened. There are indications that the Government may be preparing to discuss with Richmond and other companies confirmation of their concession and contracts on the basis of a participation in the oil produced.

The Aguila's arrangement with the Government provides for 12,580 barrels daily to the Government beginning 11 months from now. Presumably the 30 or 40 wells to be drilled by the British independent oil group are to be over the territory reserved by the Government for drilling in the arrangement with the Aguila. The independent group agrees to lend \$5,000,000 [to] build 3 refineries and 10 coast-wise vessels, all funds advanced to be paid from petroleum produced.

Local Aguila officials deny all connection with the British independent oil group.

There are indications, however, that the British Legation was cognizant of the negotiations both of the Aguila and of the independent oil group.

Particulars were forwarded to the Department by air mail this morning.

DANIELS

812.5045/611 : Telegram

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

MEXICO, December 30, 1937—7 p. m.

[Received 11:35 p. m.]

328. President Cardenas has instructed the special committee that reported the oil companies could pay increased wages of \$26,000,000 and the Labor Board, to confer with representatives of the oil companies to go over the figures. There is hope such conference will result in a willingness to reach an agreement as to what increase in wages can be paid.

The Government under pressure from Washington in view of financial situation agrees to postpone the whole question until the Supreme Court which has the power to modify the amounts in dispute passes upon the application of the oil companies. It is willing that the bond should be indeterminate and not burdensome on the companies. These concessions are conditioned upon the payment of 1,300,000 pesos in wages. Under the law they say they cannot waive this payment now. Inasmuch as the Government is ready to make the above concessions which it believes is going very far it expects the oil companies to agree to this arrangement. Mr. Beteta tells me the Government cannot and will not go further. Even so there is no certainty there

will not be a strike. He says "our Government cannot and will not recede from the obligations it owes as a Government. If it should do so it would no longer be a Government". I talked with him after he had attended a meeting with the President and other public officials. He did not disguise his feeling that his Government is acting under pressure applied by our Government at a time when Mexican finances compels Mexican officials to accept what they believe to be hard terms.

DANIELS

812.5045/611 : Telegram

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

WASHINGTON, December 31, 1937—2 p. m.

251. Your 328, December 30, 7 p. m. For the Ambassador from the Under Secretary. The Mexican Secretary of the Treasury came to Washington on his own initiative and has exposed with complete frankness to the Secretary of the Treasury of the United States the critical situation confronting the Mexican Government. He has been received with the utmost courtesy and his representations have been listened to in the most friendly and understanding manner. I informed him personally last night that by order of the President the Secretary of the Treasury would this morning advise him of the willingness of the Government of the United States to purchase immediately 35 million ounces of silver held by Mexico in the Federal Reserve Bank of California and would continue for the time being the arrangement previously entered into for the monthly purchase of silver by the United States Government. He has expressed his utmost appreciation of the friendly attitude of this Government and of this practical evidence of its desire to act as a good neighbor in its relations with Mexico.

Under these conditions I am amazed by the impressions given you by the Mexican Undersecretary for Foreign Affairs. There has been no attempt directly or indirectly on the part of this Government to bring any pressure to bear upon the Government of Mexico. The Mexican Secretary of the Treasury himself has stated to me that what is essential in Mexico in order to avert a serious crisis is the reestablishment of confidence and that one of the essential prerequisites of such reestablishment of confidence is the reaching of a fair agreement satisfactory to both sides between the Government of Mexico and the American oil companies. No representations have been made either to the Mexican Ambassador or to the Mexican Secretary of the Treasury with regard to the present controversy between the companies and the Government other than the expression of the hope that an agreement could be reached satisfactory to both sides

which would prevent either a continuation for an indefinite period of the present controversy or a complete cessation on the part of the companies of their operations in Mexico.

By authorization of the President and with the complete concurrence and approval of the Mexican Ambassador and of Dr. Suárez, I stated to them that it seemed to me that this is a very appropriate moment for us to discuss all the pending matters between our two Governments with a view to seeing whether an agreement of principle could not now be reached with regard to the distribution-of-water question, the agrarian problem, et cetera, so that the way could be cleared towards reaching in the year to come a satisfactory and friendly understanding between our two Governments on all of these matters. I believe very satisfactory progress has been made in this regard, and I am hopeful that these preliminary conversations may result in future agreements which will make it possible to settle some of these highly controversial matters at a time when such solution is feasible and not permit controversial subjects, such as the water-distribution question, to drag on until a situation is developed in both countries where a satisfactory agreement will be almost impossible.

I felt it desirable to telegraph you fully of this situation because of the exceedingly surprising and disturbing implications of the remarks made to you by Beteta. [Welles.]

HULL

812.5045/611 : Telegram

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

WASHINGTON, December 31, 1937—7 p. m.

253. With further reference to your 328, December 30, 7 p. m. Dr. Suárez and the Mexican Ambassador have just called upon me in order that the former might take his formal leave. I referred in my conversation to the impression you had gained from your interview with Señor Beteta. Both the Ambassador and the Mexican Secretary of the Treasury informed me that there was no ground whatever for any such impression on the part of the officials of the Mexican Government and that if Señor Beteta had received any such impressions as those indicated to you, they could only have been received from the Chairman of the Labor Board. They stated that they had made it especially and entirely clear to President Cárdenas and to their Foreign Office that far from there being any pressure applied by the Government of the United States, the position assumed by this Government was entirely friendly and very understanding, and that it had been made evident to them that this Government believed the

controversy between the oil companies and the Mexican Government was one which must be, and should be, settled without any outside interference. They conveyed through me to the President a message from President Cárdenas expressing his deep appreciation of the friendly assistance rendered by this Government, and Dr. Suárez himself went out of his way to express his gratitude for the understanding spirit in which he had been received here and for the demonstrations of real friendship proffered by this Government.

Dr. Suárez desired to cable President Cárdenas with regard to this matter, but I urged him not to do so in view of the fact that he assured me that any false impression which might have been circulated had now undoubtedly been completely dispelled.

HULL

**EFFORTS OF THE DEPARTMENT OF STATE TO PROTECT INTERESTS
OF AMERICAN HOLDERS OF BONDS OF MEXICAN NATIONAL RAIL-
WAYS UPON ITS EXPROPRIATION BY THE MEXICAN GOVERNMENT**

812.77/1192: Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, June 23, 1937—midnight.

[Received June 24—3 a. m.]

161. Lockett ⁷⁰ has just received copy bearing the seal of the Department of Publicity and Propaganda of the text of a decree providing for the expropriation of the Mexican National Railways by the Mexican Government.

The effective part of the decree which is to be published here tomorrow reads:

"On the basis of the considerations expressed above and also on the basis of article 1, fractions 1 and 9 article 2, article 3, articles 10 and 19 of the Expropriation Law of November 23, 1936,⁷¹ it is decreed, first, for reasons of public utility properties pertaining to the Ferrocarriles Nacionales de Mexico (Mexican National Railways) are expropriated for the benefit of the Nation. Second, the present declaration will be published in the *Diario Oficial* of the Nation and the representatives of the company affected will be notified personally for the purpose as indicated in article 5 of the law invoked (expropriation law). Third, at the proper time and in conformity with article 7 of the cited expropriation law possession will be taken of the properties expropriated and with the intervention of the Secretariats of Communications and Public Works and of the Treasury and Public Credit the properties will be delivered to the special organization which is established. Fourth, the Secretariat of Communications and Public Works will proceed according to its duty,

⁷⁰ Thomas H. Lockett, Commercial Attaché in Mexico.

⁷¹ Mexico, *Diario Oficial*, November 25, 1936.

(*Como Corresponda*) to the effect that in accordance with the terms provided for by the expropriation law and with the intervention of the Secretariat of the Treasury and Public Works it may fix the amount of the indemnification to which the Federal Government will be subject. Signed Lazaro Cardenas, President; Francisco J. Mujica, Minister of Communications; Eduardo Suarez, Minister of Finance."

Preliminary statements to decree state that better organization and efficient operation of railroads must be of deep concern for Government and that such a system of communications is of greatest importance to social and economic progress of country to such a degree that its level of efficiency denotes degree of advancement of Nation that internal political stability and exterior defense depend in large part upon the efficiency of the railroads

"That in our country the company known as Ferrocarriles Nacionales de Mexico S. A. which controls the most important lines of the railway system is organized as a company of capitalistic type, that is to say, with predominantly lucrative purposes although for reasons well known to the public and for a long time it has been operating in a manner which does not correspond to its nature and there have been created and rooted vices and deficiencies in the management of the system which are already endemic and which have delayed the reform of technical progress of the lines with injury to the economy of the country and to each one of the users of the service; that the nature of the company itself has impeded the orientation of its activities in the sense of procuring primarily social benefit and for the same reason the Federal Government notwithstanding its character as principal stock holder has had to consider the company as a private entity for the purpose of demanding of it strict fulfillment of legal dispositions."

Preliminary statements continue,

"Taking into account that there do not exist in the National Railways of Mexico any private interests different from those of the foreign creditors of the company because the amount of these credits evidently absorbs the value of the properties which form the railway system and moreover that the majority of the stock of the company belongs to the Federal Government. The Federal Executive has arrived at the conclusion that the most convenient step to realize the announced purposes consists in transferring to the Nation all the properties at present belonging to the said company effecting the respective expropriation in which all legal requirements will be strictly complied with that the measure will not cause injury to the creditors of the company since the Federal Government will have to pay them their credits within the limit corresponding to the real value of the properties transferred to the Nation."

The properties expropriated will be placed under management of a direct dependency of the Presidency created for that purpose eliminating lucrative aims and taking an evident step toward accomplishing our social emancipation.

Repeat to Commerce.

BOAL

812.77/1200

*Memorandum by the Under Secretary of State (Welles) of a
Conversation With the Mexican Ambassador (Nájera)*

[WASHINGTON,] June 24, 1937.

The Mexican Ambassador called this afternoon at my request. I told the Ambassador that I had always had the happy experience with him during these past two years of being able to take up matters in an entirely personal and unofficial way whenever questions arose which seemed to contain the possibility of creating misunderstanding or friction between the two countries. I told him that the decree of expropriation of the National Railways which had been communicated to the Department by telegram this morning was a matter of very great importance and that certain questions had immediately arisen with regard to the interpretation which should be given to certain features in the decree which I had requested our Legal Adviser to place in the form of a memorandum for my own convenience and that I was going to give the Ambassador, entirely informally, a copy of this memorandum⁷² with the personal request that he let me have a reply to the ten questions formulated therein as early as possible. The Ambassador said he would be glad to do this and would give me an answer as soon as possible.

The Ambassador agreed with me that it was of great importance that his Government, if it were prepared to give equitable compensation to the American citizens who were stockholders in the Railways, should make that fact doubly plain so that public opinion in the United States might not gain a false impression of what his Government intended to do. He said that Dr. Suarez, the Finance Minister, had called him on the telephone last night and had indicated that he was prepared immediately to negotiate with Mr. Rublee⁷³ a conclusion of the agreement covering the national debt and that he would attempt to bring this to a final adjustment before Mr. Lamont⁷⁴ sailed for Europe on June 30. Dr. Suarez had also told the Ambassador that the shareholders in the Railways would be in a far more satisfactory position as the result of the expropriation decree than they would have been if the Railways had been permitted to continue in their present status.

The Ambassador told me with much satisfaction that Dr. Suarez at the same time had advised him that a decree had been signed refusing nationalization of the religious school in Monterrey and the one known as the Burns school property in Mexico City. I ex-

⁷² *Infra.*

⁷³ George Rublee, representative of the International Committee of Bankers on Mexico.

⁷⁴ Thomas W. Lamont, member of the firm of J. P. Morgan & Co.

pressed to the Ambassador my very deep appreciation of the interest which he had taken in this matter and said I knew how happy the authorities of the Catholic Church in this country would be because of the decision taken.

The Ambassador then spoke at some length about his call upon the President this morning, upon the European situation, and expressed for the first time very considerable doubt that the Valencia Government ⁷⁵ could maintain itself much longer.

S[UMNER] W[ELLES]

812.77/1200

Memorandum by Mr. Joseph R. Baker of the Office of the Legal Adviser ⁷⁶

[WASHINGTON,] June 24, 1937.

The Department of State is informed by the Embassy of the United States at Mexico City that a decree, due to be published today, provides for the expropriation by the Mexican Government of the Mexican National Railways.

It is reported to the Department that this expropriation is to be made on the basis of provisions of the Law of Expropriations of November 23, 1936, and that it contemplates the expropriation, for purposes of public utility, of all the property of the Mexican National Railways, which will be taken over in conformity with the provisions of Article 7 of the law mentioned. This article provides that if an administrative action for revocation has not been taken, or if such action has been decided against the claims of the appellant, the seizure shall be immediately carried out by administrative authorities.

Article 5 of the law provides that the owners of property which is the subject of a decree of expropriation may, within fifteen days after notice to them of the issuance of the decree, resort to administrative action for revocation of the declaration of expropriation.

The decree is reported to provide that the properties, when seized, will be delivered to a special organization and that the Secretariat of Communications and Public Works will proceed according to its duty to the effect that, in accordance with the terms provided for in the expropriation law and with the intervention of the Secretariat of the Treasury, "it may fix the amount of the indemnification to which the Federal Government will be subject". It is reported that the statement preliminary to the body of the decree sets forth that there

⁷⁵ See vol. I, pp. 215 ff.

⁷⁶ Copy handed by the Under Secretary of State to the Mexican Ambassador, June 24. See memorandum *supra*.

are no private interests in the National Railways of Mexico other than those of the foreign creditors of the company "because the amount of those credits evidently absorbs the value of the properties which form the railway system" and, moreover, because "the majority of the stock of the Company belongs to the Federal Government". The statement is said to continue with the prediction that "the measure will not cause injury to the creditors of the Company since the Federal Government will have to pay them their credits within the limit corresponding to the real value of the properties transferred to the Nation".

Article 10 of the Law of Expropriations provides that the sum which shall be paid in compensation for property seized shall be based upon the assessed valuation of the properties. Exceptions made to this rule are cases of an increase or decrease in the value of the property since the date of the assignment of fiscal value and articles whose value has not been established by the tax offices.

It is provided in Article 11 of the law that in case of dispute as to the amount of compensation, apparently in the excepted cases last mentioned, the case shall be taken to the proper court.

Article 19 of the law provides that "the value of the compensation shall be paid by the State when the article expropriated passes to its control. When the article expropriated passes to the control of a person distinct from the State, this person shall pay the compensation".

It is provided in Article 20 of the law that "the authority which carries out the expropriation shall fix the manner and terms in which the compensation must be paid, which shall never exceed a period of ten years".

The large investments of citizens of the United States in the Mexican National Railways warrant the Department in displaying interest in the reported expropriation as directly affecting such investments and the Department is desirous of receiving from the Mexican Government a clarification of certain matters apparently involved in the decree. Accordingly, the Department requests to be advised:

(1) Whether it is to be understood from the terms of the decree that holders of stock in the Mexican National Railways, whether common or preferred, are to be barred from receiving any compensation for their interests;

(2) To what administrative action owners of interests in the Mexican National Railways may resort under Article 5 of the Law of Expropriation in an effort to revoke the declaration of expropriation;

(3) Is it the understanding of the Mexican Government that in accordance with the terms of Article 10 of the expropriation law the sum to be paid as compensation in this case is wholly or largely fixed by the assessed valuation of the property expropriated;

(4) If the answer to Question 3 is in the affirmative, what is the significance of the statement contained in the decree that the creditors will be paid within the limit corresponding to the real value of the properties seized;

(5) By whom will the real value referred to in Article 4 be fixed;

(6) To what court may the matter of compensation in this case be taken in accordance with the provisions of Article 11 of the Law of Expropriations;

(7) Does the first sentence of Article 19 of the Law of Expropriations mean that compensation shall be paid at the time when the property expropriated passes to the control of the State;

(8) Is it the intention of the Mexican Government to proceed immediately to the determination of the amount of compensation to be paid in this case and to pay such amount, and will it now indicate the approximate time of such payment;

(9) By what means and in what medium does the Mexican Government purpose to pay compensation;

(10) How, if at all, does the action taken by and contemplated in the decree affect such guarantees as the Mexican Government may have given respecting payment of the Mexican National Railways debt.

In relation to the foregoing inquiries, to which it is not doubted answers will be promptly forthcoming, the Department feels it should make a reservation covering all rights of citizens of the United States affected by the decree in question and place upon record its view that, in accordance with the generally accepted rules and principles of law extant throughout the world, persons whose property is expropriated for purposes of public utility are entitled to receive at the time of taking, just and adequate compensation for such property.

J[OSEPH] R. B[AKER]

812.77/1193 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, June 24, 1937—5 p. m.

[Received 10 p. m.]

164. My 161 of June 23 midnight. Indications which I have obtained this morning from Government sources are that the Government's decision to use the new expropriation law in order legally to take over the National Railways system was arrived at because of the operating conditions of that system which were highly unsatisfactory to the Government. It was felt that not only was the system being operated under conditions which could not but cause great inefficiency but that as a financial venture it was going more and more into the red becoming practically bankrupt. Under these circumstances it was felt logical to apply the expropriation law on the basis outlined to the

Ambassador by President Cardenas. (See enclosure to despatch 4171 of December 16, 1936 ⁷⁷).

The reason for the surprise character of the decree seems to be that the Government was fearful that if any advance notice were given to the National Railways' workers their powerful syndicate of over 80,000 members would attempt to block any such move until they had negotiated their terms of employment with the Government particularly such points as their right to strike. It is felt that while certain concessions will have to be made to them the Government is in a better position to negotiate with them after the *fait accompli*.

This morning I had a very informal conversation with Beteta ⁷⁸ who is a member of the Board of Directors of the National Railways. Beteta said he had his first inkling of the decision to expropriate yesterday evening upon General Hay's ⁷⁹ return from the Cabinet meeting. He said that the Foreign Minister had been in no way consulted on the subject; that he was lunching today with Licenciado Suarez ⁸⁰ and would probably see the President very soon. He thought he would then be in a position to give me an estimate of the legal and financial position of the American creditors and stockholders of the railways as a result of the expropriation. It was his own personal opinion that the legal claim of creditors against the Government would be unimpaired by this action but he emphasized that this was a personal view and might turn out to be erroneous.

General Mugica ⁸¹ this morning informed Lockett ⁸² that the new status of the National Railways would make for much greater simplification and efficiency in their operation which would be conducted by a commission composed of representatives of the Department of Labor, Communications and Hacienda and the Railways Administration. The Minister stated that while the railways would be taken over under the terms of the expropriation law it was his personal opinion that the stockholders if not the bondholders would be better off than under present conditions.

It was also indicated that within 3 months there was a possibility of a further expropriation of a public utility (this is believed to be the telephone companies) and that ultimately the Government might have in mind acquisition by expropriation or otherwise of the radio stations in the country and the Oriente Railway.

Please repeat pertinent portions to Commerce.

BOAL

⁷⁷ *Foreign Relations*, 1936, vol. v, p. 709.

⁷⁸ Ramón Beteta, Mexican Under Secretary for Foreign Affairs.

⁷⁹ Eduardo Hay, Minister for Foreign Affairs.

⁸⁰ Eduardo Suarez, Minister for Finance.

⁸¹ Francisco J. Mugica, Minister for Communications.

⁸² Thomas H. Lockett, Commercial Attaché in Mexico.

812.77/1192 : Telegram

The Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, June 24, 1937—6 p. m.

121. Near the end of your telegram of June 23 midnight you quote from the decree providing for the expropriation of the Mexican National Railways to the effect that the Federal Government will have to pay creditors of the National Railways their credits within the limit corresponding to the "real value" of the properties transferred to the nation. Please confirm this portion of your telegram and cable briefly any available information as to how real value would be established.

HULL

812.77/1194 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, June 25, 1937—6 p. m.

[Received 11 p. m.]

165. Department's 121 of June 24, 6 p. m. Beteta expects to see the President tonight and will seek to obtain the desired information from him in order to inform me tomorrow. Suarez has informed Lockett that the question of valuation of the railroad properties is under study and no decision as yet has been reached regarding the method of valuation although he is attempting to secure a fiscal estimate of the value. This presumably means on the basis of their taxable value as provided in article 10 in the expropriation law. Suarez and Mujica are having a conference this afternoon at which time more definite financial arrangements may be decided upon. This indicates that the entire matter is largely in Mujica's hands. Suarez is leaving tonight for Guadalajara and expects to return June 28th to Mexico City. In the meantime further information will be sought from General Mujica.

Suarez said that he felt sure that a satisfactory arrangement could be reached with the bondholders of the National Railroads and added the statement that the outstanding obligations of the railroads would more than exceed the value of the stock and therefore the Mexican Government was only interested in making an arrangement with the bondholders. In other words the stockholders will not be taken into consideration. Suarez asked whether any reaction from the International Commission of Bankers on Mexico had been received and was answered in the negative. Suarez said that the expropriation would have no effect upon outstanding contracts for orders and equip-

ment which would be fully respected and complied with without changing procedure.

From the above it appears likely that it will be difficult for the bondholders to obtain even as satisfactory an arrangement as the one last under discussion with Suarez inasmuch as the present action is the first major action under the expropriation law. It is likely that the Government will not wish to establish a precedent of indemnification exceeding that which is contemplated in the terms of the law.

Lockett requests that the pertinent parts of this be repeated to Commerce.

BOAL

812.77/1199 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, June 29, 1937—7 p. m.

[Received 9 : 28 p. m.]

172. Referring to Department's telegram No. 121, June 24, 6 p. m. Informal information obtained today from General Mugica is to the effect that valuation for indemnification purposes will be made on the basis of "real value" and not taxable value. Work on estimates of values is still going on and it cannot of course be determined at this time what Government evaluators will consider to be "real value".

BOAL

812.77/1206 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO [undated].

[Received July 9, 1937—2:16 a. m.]

180. Mujica advised Lockett today that the Government had not the slightest intention of expropriating other railroads or industries including petroleum industry which will not be expropriated but excepting other public service enterprises (the implication being that public service enterprises may eventually be expropriated) that newspapers saying Southern Pacific, Mexican and Oriente Railways would be expropriated were without foundation.

Finance Minister, Suarez, said he spoke for President Cardenas when he said "the President has not in his plans the expropriation of other railways". Suarez said that the Government would take over the Inter-Oceanico Railway but not through expropriation; the Government would negotiate direct with bondholders on outright purchase basis; that Government now has controlling stock vote in

Oceanico and has been offered that railroad for 30,000,000 pesos; that he was preparing a statement on National Railways for President Cardenas which will be published first part of next week. In view of reported further expropriations Suarez says he will include in statement assurances of no additional railway expropriations.

Suarez also said that he is still in good standing with International Committee of Bankers and had communicated with Committee for renewal of negotiations and that he would settle with foreign bondholders through Committee on basis of recent tentative agreement in lieu of revaluation of properties or diplomatic negotiation with bondholders and that stockholders are wiped out.

Department may desire to impart this in strict confidence in appropriate quarters.

Please advise Commerce confidentially.

Boal

812.77/1204 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, July 6, 1937—6 p. m.

[Received July 7—2:01 a. m.]

178. With reference to my telegram 172, June 29, 7 p. m., Beteta who is a member of the board organizing the new autonomous Department of the National Railways has indicated informally that the basis for adjustment with the bondholders is expected to be tentative agreement reached with their representatives a few months ago.

However, Lockett also learns from personal letter from Laylin⁸³ that Mr. Lamont plans to have funds now in hands of Committee distributed immediately in view of apparent failure to reach any agreement in the direct debt negotiation with Suarez. It seems likely that this step will prejudice chances of either favorable or early settlement for railway bondholders.

Boal

812.77/1207

The Mexican Embassy to the Department of State

[Translation]

MEMORANDUM FOR MR. SUMNER WELLES, UNDER SECRETARY

The Department of Foreign Relations of Mexico has drawn up the present Memorandum in reply to the one which Your Excellency was good enough to present to me on the 24th ultimo, with regard to the expropriation of the National Railways of Mexico.

⁸³ John G. Laylin, of the firm of Covington, Burling, Rublee, Acheson & Shorb.

The Department mentioned has considered it advantageous instead of replying, one by one, to the ten questions contained in Your Excellency's memorandum referred to, to make a general explanation, more effective because of unity and extent, which contains the pertinent details:

In the memorandum of June 24th last, the Department of State of the United States of America was good enough to formulate ten questions with regard to the form and conditions in which the Government of Mexico will pay the indemnification for the National Railways, expropriated in virtue of the Decree of June 23, 1937.

In order that the American Department of State may get a complete understanding of the matter, the Department of Foreign Relations wishes to explain below what the true situation is with respect thereto, both from the economic and the legal standpoint.

The indebtedness of the National Railways exceeds five hundred million dollars (\$500,000,000), and according to the most optimistic estimates, the present value of the physical property of the railways does not amount to anywhere near half this sum. Consequently, the holders of stock of the Railways are owners of a negative quantity; the stock has absolutely no value.

As can be seen, the Government of Mexico cannot have the intent of excluding them from indemnification, since they are not entitled to any, as the condition in which they are was not caused by the Agreement of June 23rd last and is the same as has been observed for a period of many years.

Of the shares of stock representing the capital of the Railways, the Government of Mexico holds the majority, and the Board of Directors named in Mexico City by such majority has already declared its agreement to the expropriation, as well as the express desire not to present any opposition to it. On its part, the New York Board of Directors, which represents the minority of the stockholders, refrained from expressing its opinion on the matter. If the stockholders did have any right, they themselves have voluntarily renounced it.

As far as the problem of the valuation of the National Railways is concerned, for the purpose of the payment of an indemnity, it is well to call the Department of State's attention to the fact that the money value of the Railways mentioned is not known, nor is it recorded anywhere. In virtue of that fact, and in accordance with the provisions of Article 10 of the Expropriation Act of November 23, 1936, the procedure to which recourse must be had in the present case is that of direct valuation; but this does not exclude the possibility of an understanding with the interested parties, for the purpose of fixing the amount which equitably is considered fair for those persons who are entitled to receive any compensation.

The problem stated is therefore that of determining who are entitled to indemnification and under what conditions this is to be paid to them. To get a full understanding of this problem it must be recalled that, as this memorandum states, the right to indemnification cannot belong to the stockholders, as the indebtedness is greater than the value of the property. The only persons entitled to ask for compensation of that character are the bondholders. With regard to the latter, the following explanations must be made:

First: That the Expropriation Agreement of June 23rd last in no wise affects the guaranties given by the Government of Mexico with respect to the indebtedness of the National Railways, and that those guaranties will be maintained in entirety unless modified by an agreement made with the said creditors.

Second: That whatever the amount of the indebtedness may be, the indemnification must not be greater than the value of the National Railways.

Taking these circumstances into account, the Government of Mexico is disposed to enter into agreements with the bondholders and has already stated this to the interested parties.

With respect to the details requested as to terms, form of making the payment, currency, etc., the provisions of the Expropriation Act do not preclude the possibility of a direct understanding between the Government of Mexico and the persons affected.

The Department of Foreign Relations considers that the foregoing explanation answers, in essentials, all the questions formulated by the Department of State of the United States of America in its kind memorandum of June 24th of the current year. With regard to the data requested in case of opposition, the Expropriation Act of November 23, 1936, amply covers the points in its Articles 4, 5, 6 and 7. However, as the Government of Mexico believes, with good reason, that the creditors are disposed to reach a settlement, it is to be hoped that the future obligations of the Mexican State toward the holders of bonds of the National Railways may be fixed by mutual consent.

WASHINGTON, July 12, 1937.

812.51/2217 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, July 22, 1937—5 p. m.

[Received 8:50 p. m.]

197. Reference your instruction 1628 of July 14⁸⁴ and copy of telegram from Suarez to J. P. Morgan and Company.⁸⁴ Lockett conferred with Suarez today in order to clarify statements therein.

⁸⁴ Not printed.

Suarez explained that he had indicated in his telegram his desire that Bankers' Committee send him drafts of both railway and foreign debt agreements so that he might make his counter proposals and then if agreed to by Bankers' Committee he would sign them immediately. He did not state the nature of his counter proposals. Suarez said that last sentence in paragraph 3 of his telegram meant that delay in consummating agreements was due to Mexican Government's desire to not sign agreements until it was confident of its ability to fulfill them permanently.

BOAL

812.51/2236

Memorandum by the Chief of the Division of the American Republics (Duggan) to the Under Secretary of State (Welles)

[WASHINGTON,] November 29, 1937.

MR. WELLES: I had a long conversation with Mr. Rublee on Saturday regarding his debt negotiations. He told me that Mr. Suarez informed Mr. Thomas W. Lamont that he is ready to sign the agreements with respect to the Government funded debt and the railroad. Mr. Layhn [*Laylin*] of Mr. Rublee's office has already gone to Mexico and Mr. Rublee himself intends to leave at the end of this week. Mr. Rublee stated that he intended to see you prior to his departure.

In view of the present tight situation in Government finances, it is somewhat surprising to learn that the Government is prepared to sign agreements looking to the resumption of debt service. It is my own belief that this aspect is secondary in the calculations of Mr. Suarez who is so desperately in need of finding funds that he is willing to undertake a commitment to resume debt service in the near future in exchange for receiving a sizeable slice of the \$7,000,000 impounded in New York. Mr. Rublee informs me that the Government will receive \$1,000,000 at once, and a further participation, depending upon the number of bondholders who assent.

DISCUSSION OF AN AGREEMENT BETWEEN THE UNITED STATES AND MEXICO FOR A LUMP SUM SETTLEMENT OF GENERAL CLAIMS

411.12/2451a : Telegram

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

WASHINGTON, November 16, 1937—3 p. m.

227. Inasmuch as the two Commissioners designated under the General Claims Protocol of 1934⁸⁵ to consider the claims covered by that

⁸⁵ Signed April 24, 1934; Department of State Treaty Series No. 878, or 49 Stat. 3071; see also *Foreign Relations*, 1934, vol. v, pp. 467 ff.

Protocol have now submitted their report, the next step to be taken with respect to these claims is that provided for in Paragraph Fifth of the Protocol, namely, the conclusion of a convention by the two Governments for final disposition of the claims. This contemplates a convention providing for an en bloc settlement or reference to an umpire of the cases upon which the two Commissioners have not agreed.

In view of the length of time that these cases have been occupying the attention of the two Governments and of the dissatisfaction that has resulted from the delay in disposing of them, which dissatisfaction has been manifested not only by the claimants but by members of Congress, as well as the executive branch of this Government, the Department considers it of the utmost importance that negotiations looking to a final settlement should be undertaken at the earliest possible date. You are therefore requested to take up the matter immediately with the Minister of Foreign Affairs and after impressing upon him the importance of bringing the whole claims situation to an early conclusion, inquire whether he is prepared promptly to send a representative to Washington with authority to discuss possible terms of a lump sum settlement. While we prefer that the discussion be held here we will, of course, be willing to send a representative to Mexico City if the Mexican Government insists upon having the discussions held there.

Inasmuch as it is understood that the Mexican holidays begin on the 20th of this month and last until the 1st of December, it will be desirable to have a prompt answer in order that we may make our arrangements accordingly.

HULL

411.12/2456 : Telegram

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

MEXICO, November 24, 1937—4 p. m.

[Received 7:10 p. m.]

306. Department's telegram 227, November 16, 3 p. m. Beteta⁸⁶ informally states that the Mexican Government is not clear as to whether it is the Department's desire to negotiate a convention covering all claims under the Protocol or only those claims which have been discussed. If the former the Mexican Government would be unwilling to refer to an umpire cases upon which there has been no agreement and which have not been discussed. In that case they would regretfully consider extension of time provided in the Protocol in order to afford an opportunity for discussion of all claims.

⁸⁶ Ramón Beteta, Mexican Under Secretary for Foreign Affairs.

They would prefer, if that is what the Department has in mind, a negotiation, not deriving from the terms of the Protocol, for the purpose of reaching an en bloc settlement of all claims whether discussed or not but excluding the possibility of any reference to an umpire. If the Department's proposal is for an en bloc settlement or reference to an umpire of only those cases which have been discussed they would agree to this as they are committed to it under the Protocol.

Beteta indicated that they hoped the negotiation could take place here because of the expense of sending representatives to Washington, but said that this question could be determined after determination of the scope of the negotiations. My suggestion to him referred only to negotiations in Washington. The idea of negotiation here was not mentioned by me, but was brought forward spontaneously by Beteta.

DANIELS

411.12/2456 : Telegram

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

WASHINGTON, November 26, 1937—6 p. m.

234. Your 306, November 24, 4 p. m. The Department's purpose is to negotiate an agreement along the lines contemplated by the Protocol, namely, for a lump sum settlement of all claims, or reference to an umpire of cases on which the two Commissioners have not agreed. The fact that some of the claims were not discussed was due to no fault on the part of the American Commissioner, who was prepared and willing to discuss all claims.

It is the Department's desire that the present negotiations should be devoted primarily to a lump sum settlement and, secondarily, to the alternative procedure only in the event that efforts looking to a lump sum settlement shall fail.

The Department would very much prefer to have the negotiations take place in Washington and at as early a date as possible. As to the expense to which the Mexican Government refers, you may say that this Government would be willing to adjust this matter in connection with any settlement reached on the basis of joint expenses.

HULL

411.12/2466

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

No. 5744

MEXICO, November 29, 1937.

[Received December 6.]

SIR: I have the honor to refer to the Department's telegram No. 234 of November 26, 1937, 6 p. m., regarding the negotiation of a convention for a lump sum settlement of the general claims, and if necessary for reference of certain claims to an umpire.

I have the honor to report that Mr. Boal⁸⁷ today discussed in the sense of the Department's telegram this matter with Licenciado Beteta, Undersecretary of State. Mr. Beteta said that he would consult with his legal experts regarding the matter. He indicated that the reference to an umpire of cases which had not been discussed presented a difficult problem for the Mexican Government. Mr. Boal pointed out to him that the primary purpose of the negotiation suggested was to endeavor to arrive at a lump sum settlement, and that doubtless the negotiators could discuss the procedure in the event of failure with a view to seeing what adjustment could best be made regarding non-discussed claims. Licenciado Beteta said that he would be able to give a reply within a few days.

He again referred to his preference for having the negotiations take place in Mexico City, and to the expense that would be entailed if they took place in Washington. He estimated roughly that it would cost the Government about 25,000 pesos to negotiate in Washington. Mr. Boal asked whether, if some adjustment on the basis of joint expenses could be arranged, the principal objection to negotiating in Washington would not be over-come. Licenciado Beteta seemed receptive to this idea. He said that in the event of negotiations, they might designate the Ambassador in Washington to conduct them and send technical assistants to Washington to work with him. He was anxious that in that event our negotiator should be of adequate rank to deal with the Ambassador on the understanding that the American experts assigned to work with the negotiator would in fact take most of the burden of daily negotiations. He explained that Licenciado Flores⁸⁸ was seriously ill and would not be able to go to Washington in any case.

Respectfully yours,

JOSEPHUS DANIELS

411.12/2471

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

No. 5811

MEXICO, December 11, 1937.

[Received December 14.]

SIR: I have the honor to refer to the Department's telegram No. 234 of November 26, 1937, 6 p. m. and to other recent correspondence. I enclose herewith a copy with translation of a memorandum dated December 1, 1937, from the Foreign Office on this subject. The memorandum has just been received under cover of a personal note from Mr. Beteta, dated December 8, 1937.

Respectfully yours,

JOSEPHUS DANIELS

⁸⁷ Pierre de L. Boal, Counselor of Embassy.

⁸⁸ Benito Flores, Mexican Commissioner, General Claims Commission.

[Enclosure—Translation]

The Mexican Ministry for Foreign Affairs to the American Embassy

MEMORANDUM

The Ministry feels that the moment has not yet come to undertake the transaction provided for in Article V of the Protocol, since the National Commissioners have not discussed all the claims, which, in accordance with Article IV, must be known (*considered*).

The Mexican Commissioner has always been prepared and willing to discuss all claims and if the two Commissioners found it impossible to do so, then surely it was not their fault; but anyway, it is a fact that a good number of the claims of both countries have not been discussed. Perhaps the explanation of what has happened, as was the case with regard to the functioning of the former Commission whose powers, on various occasions, it was necessary to prorogue for a greater length of time than was initially provided for in the Treaty of September 8, 1923,⁸⁹ is due to the lack of provision by the Protocol with respect to the period of time necessary to complete their work.

However, given the reasons cited by the Department of State, in which this Ministry fully agrees, it is considered most fitting that both Governments make an effort together to agree upon an en bloc settlement by means of an *ad hoc* transaction, which would thus settle all claims.

The Mexican Government considers that said en bloc agreement could not be agreed upon by following the features of the Protocol, because it would be impossible to be confined to them, taking into consideration the provision of Article V, since it would not be possible later to come to an agreement through an arbiter for the resolution of the claims on the bases of each one, as the two National Commissioners could not be required then, for not having had an opportunity to discuss them, to "bear witness to the agreements celebrated by them with respect to each claim and the bases upon which they found their conclusions," according to the text of said article.

Therefore, the Ministry begs to insist upon the understanding that the Government of Mexico, essentially, manifests its conformity to name a representative with ample power to discuss the possible terms of an en bloc settlement on all claims presented before the General Commission, without said transaction being considered as that provided for in Article V of the Protocol of April 23, 1934, but rather as an extraordinary effort (*esfuerzo*), not within the terms of said Protocol, to obtain the result abovementioned.

MEXICO, December 1, 1937.

⁸⁹ Department of State Treaty Series No. 678, or 43 Stat. 1730; *Foreign Relations*, 1923, vol. II, p. 555.

411.12/2471

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

No. 1855

WASHINGTON, December 30, 1937.

SIR: The Department has received and carefully considered your despatch no. 5811 of December 11, 1937 and the enclosed memorandum of December 1, from the Mexican Foreign Office. With a view to assisting you in your further negotiations with the Mexican Government, the Department desires to direct your attention to certain phases of the background of the claims negotiations and to indicate to you the reasons for the Department's feeling that the attitude of the Mexican Government, as explained in its abovementioned memorandum, is unjustified, and for its desire that you procure an agreement to proceed in this matter in accordance with the obligations of paragraph "Fifth" of the Protocol of April 24, 1934.

In this connection the Department would suggest that you review the memorandum enclosed with the Embassy's despatch no. 1626 of June 30, 1932.⁸⁰ That memorandum summarizes the negotiations which had taken place between the two governments with respect to the pending claims matters up to that date. An examination of that memorandum, especially from pages 31 to 55 thereof, will serve to show you that, at that time, 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 disposition 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, this Government 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 general claims and in the firm belief that it would be utterly impossible to develop both the general and the special claims, even by a curtailed series of pleadings, within three years. It seemed clear that an en bloc settlement of the general claims, in the then existing state of affairs, was entirely impracticable because it was wholly impossible for either government to have any definite idea as to the extent of general liability of itself or the other government on such claims, and because the Mexican Government was insisting upon the validity

⁸⁰ Not printed.

of the numerous so-called Texas land claims,⁹¹ amounting to approximately \$235,000,000, which subsequent pleadings have shown to be wholly worthless. In that situation, 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 Mexican Government's demands. That protocol embodied the principles for which the Mexican Government had contended, so far as concerns the matter of pleading the general claims, and, in accordance with its demands, the time allowed for the development of the cases was limited to about 30 months, whereas the time allowed the commissioners of the two Governments for the 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. In this connection your attention is directed to the fact that although the protocol was concluded on April 24, 1934, the Embassy reported, on October 13, 1934 (your despatch no. 1845),⁹² that the Mexican Government had decided to "continue" as its General Claims Commissioner Dr. Fernandez MacGregor who was already familiar with the claims work and, presumably, with the hundred or more already pleaded cases, that on October 19, 1934, the American Commissioner was appointed in pursuance of the protocol, and that the final report of the two national commissioners was not filed until the end of October 1937. It is obvious, therefore, that, 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 1500 claims which they did not consider supportable on the merits.

It is hoped that in the memorandum attached to your despatch now under consideration, the Mexican Government contends that the failure of the two commissioners to decide more than 1000 of the claims submitted to their consideration was not due to any fault on the part of the Mexican Commissioner, who, it was said, "has always been prepared and willing to discuss all claims." In connection with that statement there is quoted below, for your confidential information, and for such discreet use thereof as may properly be made with a view to furthering the next step in the proceedings under the protocol of April 24, 1934, the following quotation from a communication of the American Commissioner, Oscar W. Underwood, Jr.

"During the Mexico City conference in February and March of this year, some cases belonging to these categories [business losses, contract,

⁹¹ Mexico submitted claims to the General Claims Commission for Mexican land grants in Texas which were disallowed by the state of Texas, but nothing came of the claims.

⁹² Not printed.

tax, expropriation and agrarian cases] ^{92a} were brought before the commissioners and it then became evident that the commissioners lacked a common objective with regard to such claims. . . .⁹³ [The discussion of those cases] ^{92a} 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 peculiar 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 right for a full and free arbitration of these matters between Mexico and the United States."

There is an obvious inconsistency between the above-mentioned memorandum of the Mexican Foreign Office and Mr. Underwood's statement unless the Foreign Office intended to make a distinction between "discussing" claims and deciding them.

It will be obvious to you, moreover, that 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 fully observed and that the failure of the two commissioners to consider and to agree or disagree with respect to all the claims submitted to them, was apparently due to lack of cooperation on the part of the Mexican Commissioner rather than to any fault on the part of the United States. In this connection it is also worthy of note that the failure of the Mexican Government to cooperate fully in that respect apparently was not due to the fact that the services of its original appointee, Dr. Fernandez MacGregor, were discontinued after approximately one year of the three year pleading period and that a new commissioner was appointed, since it is said by the Foreign Office that the new commissioner was "prepared" at all times to discuss the claims.

The objective of the foregoing is to demonstrate to your satisfaction and for your assistance in your negotiations, the fact that there are still pending some 1100 claims, which the two commissioners failed to discuss but wholly without fault on the part of this Government in

^{92a} Brackets appear in the original.

⁹³ Omission indicated in the original.

the matter of compliance with the theretofore expressed demands of the Mexican Government that the claims be disposed of in a maximum of three years.

It is also important for you to have in mind, in connection with the pending negotiations, 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 that provision of the protocol now unequivocally rests upon them. The memorandum attached to your despatch no. 5811 indicates that the Mexican Government now desires to evade that obligation of the protocol and to proceed to some informal, ex-conventional, en bloc negotiations, without any binding obligation on its part in the matter of the conclusion of an en bloc convention as the only alternative to umpire proceedings on the pending claims, because of 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. In such a technical contention this Government, of course, cannot in any respect concur. In the first place, the American Commissioner has prepared his opinions in all cases—those not discussed as well as those decided. In the next place, 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 even contemplated by the protocol. In the third place, 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. It could not under any circumstances be conceded by this Government that the failure of the Mexican Government, through its two Commissioners, to cooperate with the American Commissioner in an intensive effort to appraise

the claims submitted to their consideration in compliance with the Protocol obligations, especially under the circumstances outlined above, could constitute any proper basis for contending that the obligations of the protocol have thereby been set aside, and that the two governments are now under the necessity of proceeding to further negotiations with respect to the pending claims released from the obligations of either the Convention of September 28, 1923 or the Protocol of April 24, 1934. The Department 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 negotiations, and therefore expects that the Mexican Government will cooperate in the matter of concluding the further convention called for by paragraph "Fifth" of that protocol by first designating a representative to confer with a representative of the United States with a view to concluding, if possible, an en bloc settlement of the claims. If the Mexican Government is prepared to send such a representative to Washington this Government will, as indicated in the Department's telegram no. 234 of November 26, be prepared to share in equal proportions the expenses of the two governments in that connection.

It is desired that you take this matter up with the Mexican Foreign Office in the sense of foregoing, emphasizing the fact that this Government cannot concede that such negotiations have any other character than that of compliance with article "Fifth" of the Protocol and requesting that everything possible be done to bring about the beginning of such negotiations "with the least possible delay."

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

**TREATY BETWEEN THE UNITED STATES AND MEXICO TERMINATING
ARTICLE VIII OF THE BOUNDARY TREATY OF DECEMBER 30, 1853,
SIGNED APRIL 13, 1937**

711.1215 Gadsden Treaty/13

The Secretary of State to President Roosevelt

WASHINGTON, [March 11, 1937.] ⁹⁴

MY DEAR MR. PRESIDENT: The Government of Mexico has requested this Government to conclude a treaty with it providing for the abrogation of Article VIII of the Gadsden Treaty of December 30, 1853.⁹⁵

⁹⁴ This letter was handed to the President about March 11, according to a note on the original which was undated.

⁹⁵ Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 6, p. 293.

For your reference, I enclose a copy of Article VIII of the Gadsden Treaty and a translation of the new treaty proposed by the Mexican Government.

The provisions of the article in the Gadsden Treaty which it is now proposed to abrogate, I am informed, have never been operative, and the article would seem to be obsolete. Its retention is objectionable to the Mexican Government primarily because of the penultimate paragraph which provides for the transit of troops and munitions of the United States across the Isthmus of Tehuantepec and the Mexican Ambassador has informed me that General Cárdenas is particularly anxious to obtain a prompt consummation of the proposed treaty for domestic and political reasons.

As you will see from the translation of the proposed new treaty, which I enclose, the suggested preamble would appear to be entirely satisfactory, and the sole article other than the usual ratification article is limited to the abrogation of Article VIII of the Gadsden Treaty.

I consequently recommend your approval of the proposed treaty as suggested by the Mexican Government. My recommendation to you in this regard is concurred in by the Secretary of War, the Secretary of the Interior, and the Secretary of Commerce, whom I have consulted in this regard. May I have your instructions in the matter? ⁹⁶

Believe me [etc.]

CORDELL HULL

[The treaty was signed at Washington; for text, see Department of State Treaty Series No. 932, or 52 Stat. 1457.]

**REPRESENTATIONS TO THE MEXICAN GOVERNMENT REGARDING
THE FAILURE OF MEXICAN COURTS TO PUNISH ADEQUATELY THE
MURDERER OF AN AMERICAN CITIZEN**

312.1113 Sustaita, Antonio/28

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

No. 1214

WASHINGTON, September 15, 1936.

The receipt is acknowledged of your despatch No. 3897 of August 31, 1936,⁹⁷ with which you enclosed a copy and translation of a note from the Mexican Foreign Office, dated July 13, 1936, advising with respect to representations made by your Embassy concerning the murder of Antonio Sustaita, an American citizen, on June 10, 1934,

⁹⁶ This document bears the following notation in the President's handwriting:
"CH OK FDR."

⁹⁷ Not printed.

that the appropriate authorities have been instructed to see that justice is strictly applied in this matter and in case the sentence imposed upon the murderer can not be changed, to demand responsibility, if the case should arise, of the officials found guilty in connection with that sentence.

It is observed that the Foreign Office makes no mention of the payment of a suitable indemnity to the family of Mr. Sustaita, notwithstanding the oral representations made by your Embassy under instructions from the Department on this point. Therefore, referring to the Department's instruction No. 1105 of May 27, 1936,⁹⁸ in which you were directed to press for a prompt settlement in this matter, it is desired that you again bring it to the attention of the Foreign Office this time in a note embodying the substance of the Department's instruction of May 27. In this relation, you will please request to be specifically informed whether Mexican law provides for the reopening of the case against the murderer of Mr. Sustaita which was apparently closed by the decision of the Supreme Court of the State of Tamaulipas following which the murderer was liberated from prison, September 22, 1934, after spending approximately three months therein.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

312.1113 Gustaita, Antonio/28

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

No. 3971

MEXICO, September 28, 1936.

[Received October 5.]

SIR: I have the honor to refer to the Department's instruction No. 1214 of September 15, 1936 (File No. 312.1113 Sustaita, Antonio/24[26]), concerning the murder of an American citizen, Antonio Sustaita, at Matamoros, Tamaulipas, on June 10, 1934.

In accordance with this instruction, a note was forwarded to the Foreign Office on September 22, a copy of which is transmitted herewith for the Department's information and files.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure]

The American Ambassador (Daniels) to the Mexican Minister for Foreign Affairs (Hay)

No. 1794

MEXICO, September 22, 1936.

EXCELLENCY: I have the honor to refer to Your Excellency's note No. 5906 of July 13, 1936,⁹⁸ concerning the murder of an American

⁹⁸ Not printed.

citizen, Antonio Sustaita, at Matamoros, Tamaulipas, on June 10, 1934. Under instructions from my Government, I must again bring this case to Your Excellency's attention.

A brief review of this case is as follows: On June 10, 1934, Sustaita, American born, about twenty-six years of age and a member of the Brownsville, Texas, Fire Department, visited Matamoros with his family and some friends for recreational purposes. Early in the day he had a dispute with Rodríguez and blows were exchanged by the two men. Later, while in a saloon in another part of the city, Sustaita was accosted by Rodríguez, who in the meantime had armed himself, and, after the exchange of a few words, the latter shot Sustaita in the side, the bullet passing through the stomach. The wounded man was taken to a local hospital and later in the day was removed to the Mercy Hospital in Brownsville where he died on the following day, June 11, 1934. Rodríguez, who was also known as Valero, was tried in the Court of First Instance at Matamoros and sentenced to imprisonment for twenty days, to count from the day of his arrest on June 10, 1934, and the court records were transmitted to the Supreme Court at Victoria for review. That Court apparently affirmed the findings of the first instance court, as follows:

"1. There are grounds for the indictment. (Prosecution) (*Acusación*). 2. Miguel Valero Rodríguez is criminally responsible as author of the crime of homicide committed on the person of Antonio Sustaita. 3. The penalty applicable to Miguel Valero Rodríguez, as author of the crime of homicide is that determined by Article 183, fraction IV of the existing Penal Code. 4. The accused is favored by the extenuating circumstance of his former good record and there is no aggravating circumstance (Article 39, fraction I of the Penal Code). 5. The accused should be admonished against repetition of the offense. (*Debe amonestarse al acusado para que no reincida*)."

It appears that Rodríguez actually spent approximately three months in prison, the jail records showing that he was liberated on September 22, 1934.

Would Your Excellency kindly inform me whether Mexican law provides for the reopening of the case against the murderer of Mr. Sustaita which was apparently closed by the decision of the Supreme Court of the State of Tamaulipas, following which the murderer was liberated from prison on September 22, 1934, after spending approximately three months therein.

The available data indicate that Rodríguez deliberately armed himself and sought for Sustaita within a short period following their fistic encounter for the express purpose of killing him; that Sustaita was unarmed; and that he was shot down in cold blood. Considering the circumstances, and the shockingly inadequate sentence imposed

upon the murderer by the trial court and affirmed by the State Supreme Court and the further fact that the victim left a wife and two small children, it appears that the Mexican Government should agree promptly to the payment of a suitable indemnity for the family of the late husband and father. It is felt that the sense of fairness and justice of the Mexican Government will be satisfied by nothing less in a case where, as in this one, there has occurred such a miscarriage of justice.

My Government would greatly appreciate an early settlement of this case. I am authorized to inform Your Excellency that my Government will consider the sum of five thousand dollars acceptable as indemnity.

Please accept [etc.]

JOSEPHUS DANIELS

312.1113 Sustaita, Antonio/30

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

No. 4600

MEXICO, April 20, 1937.

[Received April 26.]

SIR: I have the honor to refer again to the Department's instruction number 1214 of September 15, 1936, and various despatches from this Embassy, including number 3982 of October 2, 1936,⁹⁹ regarding the desire of the Department that the Mexican Government pay an indemnity for the family of Antonio Sustaita, murdered at Matamoros on June 10, 1934.

A note dated April 14, 1937, has now been received from the Foreign Office stating that in view of the legal considerations advanced in the document enclosed with the note, the Mexican Government is unable to give process to the claim. Copies of the note and its enclosure, with translations, are enclosed.

It is noted that the position of the Mexican Government is based on purely legal, or even legalistic, grounds.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure—Translation]

The Mexican Under Secretary of State (Beteta) to the American Ambassador (Daniels)

No. 33615

MEXICO, April 14, 1937.

MR. AMBASSADOR: I have the honor to refer to Your Excellency's courteous note number 1784 [1794], dated September 22, 1936, in which

⁹⁹ No. 3982 not printed.

you request an indemnity of five thousand dollars for the assassination of the American citizen, Antonio Sustaita.

In reply, I beg leave to inform Your Excellency that my Government is unable to give process to that claim, in view of the legal considerations contained in the document attached.

I avail myself [etc.]

R. BETETA

[Subenclosure—Translation]

The Mexican Ministry for Foreign Affairs to the American Embassy

This Ministry proceeded to obtain information in the case from both the Government of the State of Tamaulipas and the Ministry of Gobernación, from which information it appears, briefly, that:

On June 10, 1934, Valero Rodriguez, of Mexican nationality, employed as a Second Class Officer of the Customs Guard, murdered, in the city of Matamoros, Tamaulipas, the American citizen Antonio Sustaita, a fireman of the City of Brownsville, Texas.

The corresponding trial having been opened before the Court of First Instance of the said city of Matamoros, the declarations were taken of the witnesses who, it can be said, were divided into two groups, one made up of the friends of the murdered man and the other made up of the friends of the murderer. Following a careful examination of these declarations, the following conclusions are reached:

There was a quarrel in which Sustaita roughly struck Valero, who was unarmed. Valero withdrew from the saloon in which this quarrel took place to his home where he washed himself and changed his blood-stained clothing and, after arming himself with his pistol, he returned to the saloon in question where Sustaita still was. According to the friends of the latter and to the murdered man, Valero arrived with pistol in hand and shot him. According to the friends of Valero, the murderer, on seeing Sustaita and fearing a new attack on his part, drew his pistol, at which moment it went off accidentally and wounded the said Sustaita.

The Judge who tried the case rendered a decision considering Valero guilty of the crime of homicide, and sentenced him to twenty days' minor arrest, which is the minimum prescribed by the Penal Law. This sentence was carried out because the parties interposed no recourse whatever against it. In accordance with article 409 of the Code of Civil Procedures of the State of Tamaulipas, the Superior Tribunal of Justice of the same State reviewed the sentence in question with a view to determining whether there were grounds for responsibility on the part of the sentencing Judge (*para exigir re-*

sponsabilidades al Juez sentenciador), and declared that there were none.

The relations of the murdered man did not present themselves during the trial to constitute themselves a party in the proceedings.

From the facts indicated above, and with reference to the complaint and request for indemnity of the Embassy of the United States, the following legal considerations suggest themselves (*se desprenden*) :

1. Neither the judicial procedures pursued, nor the sentence pronounced can be reviewed or modified by the administrative local or federal authorities.

2. Nor can the sentence be modified by judicial means, because no recourse was interposed against it and it has therefore remained final.

3. Also, it is not possible to subject Valero to a new trial because the Mexican Constitution prohibits expressly the trying of an individual twice for the same offense.

4. With respect to the complaint of a denial of justice, resolved by the American Government in the form of indemnity in money, and which can be based on the principles of International Law and on the last part of article 32 of the Law of Nationality and Naturalization, the following should be stated :

In general, it should be held that it is lawful to consider and accept a case of denial of justice only when such denial of justice causes damage to a foreign individual or State. If this direct damage does not exist, the action of denial of justice should be considered ineffective (*ineficaz*), based on the principle that where there is no interest there is no action.

In the matter of the administration of penal justice, the failure to impose adequate sanction for the commission of a criminal act upon the person of a foreigner causes no direct damage whatever to the victim of the crime nor to his Nation, because the imposition of the penalty is not based on the satisfaction of individual or social vengeance, nor has it as its object the reparation of the personal or collective harm which the offense may have caused.

Consequently, even supposing that it should be admitted that in the present case the penal sanction lawfully corresponding to the crime was not imposed on Valero, since this omission causes no direct damage either to the murdered man or to the United States of America, this Nation lacks the right necessary to justify (or "the legal basis necessary for") its denial of justice action and, therefore, to resolve this action in the form of an indemnity in cash.

Neither could the action in question be based on the general interest derived from the principles of universal justice, because this interest could not go beyond the possibility of demanding personal responsibility on the part of the officials charged with the administration of justice in the State of Tamaulipas in case of failure to comply with their obligations, not applying duly the appropriate legal precepts,

for the exercise of this power corresponds exclusively to the Mexican State as a sovereign entity.

Now then, along with the penal responsibility of a delinquent, is the civil responsibility which obligates the delinquent to make reparation for the damage caused by the offense which he committed and which is satisfied by the corresponding indemnification of the persons to whom the law grants this right and who in the present case are the nearest relations of the murdered man. Within this concept, since such persons have not presented themselves to exercise their right, it is in order to recommend that they do so, fulfilling all the requirements prescribed by the Mexican laws applicable to the case. If within the judicial procedures that may follow the exercise of this right, there should occur a denial of justice by the courts of the country, after all legal means had been exhausted, then the diplomatic action attempted by the Embassy of the United States would be in order (*si procedería*).

312.1113 Sustaita, Antonio/33

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

No. 1517

WASHINGTON, May 4, 1937.

SIR: The Department has received your despatch No. 4600 of April 20, 1937, with which you enclosed a note from the Mexican Foreign Office dated April 14, 1937, declining to pay an indemnity on account of the shockingly inadequate sentence imposed upon Miguel Valero Rodríguez, then a Mexican Customs official, for the murder on June 10, 1934, at Matamoros, Mexico, of Antonio Sustaita, an American citizen.

As was stated in the Department's instruction No. 1105 of May 27, 1936,¹ it was felt that it would only be necessary to call the facts in this case to the attention of the Mexican Government, whereupon its sense of fairness and justice would be satisfied by nothing less than the prompt payment of a suitable indemnity for the wife and children of the deceased. Therefore, the Department is surprised and disappointed at the attitude taken by the Mexican Government and is especially surprised at the novel ground upon which the declination was based, namely, that the omission to punish Valero adequately, if it exists, "causes no direct damage either to the murdered man or to the United States of America" and therefore involves no denial of justice. The Department is not aware of any basis in international law for this attitude of the Mexican Government and in this relation refers to the following cases decided by the General Claims Commis-

¹ Not printed.

sion, United States and Mexico, wherein the indicated awards were made by the unanimous opinions of the commissioners:

In an opinion rendered May 6, 1927, and written by the Mexican Commissioner in the matter of the claim of George Adams Kennedy,² an award of \$6,000 was made to this American citizen on the ground of a denial of justice arising in part from the fact that the sentence of two months imprisonment imposed upon Manuel Robles, a Mexican citizen, for the serious wounding of Kennedy was "out of proportion to the seriousness of his crime". In the course of the principal opinion, Commissioner Fernández MacGregor said: "I think that the international duty which a state has duly to punish those who, within its territory, commit a crime against aliens, implies the obligation to impose on the criminal a penalty proportionate to his crime".

In his concurring opinion, Commissioner Nielsen said: "I think that enough has been said to justify the conclusion which the three Commissioners have reached to the effect that the instant case reveals a denial of justice within the meaning of international law".

On April 2, 1929, the Commission rendered an opinion awarding \$8,000 on behalf of Ethel Morton,³ widow of Genaro W. Morton, an American citizen, who was murdered in Mexico City in 1916. The basis of the award was stated to be the "wholly inadequate sentence of four years" imposed upon the killer. The Commission said: "The responsibility of a nation under international law for failure of authorities adequately to punish wrongdoers has frequently been discussed by this Commission".

Under date of October 24, 1930, the Commission in a decision written by the Mexican Commissioner awarded to the widow and minor son of Ralph Greenlaw,⁴ \$7,000 on account of remissness of Mexican judicial authorities in the prosecution and punishment of the murderers of this American citizen. One of the grounds assigned by the Commission for its decision was the inadequacy of the penalties imposed upon four of the persons arrested for the crime in question.

You will please bring the foregoing to the attention of the Mexican Foreign Office and in this relation refer to the contrast between the attitude of the Mexican Government in this case and that of the Government of the United States, which promptly paid an indemnity to the Mexican Government on account of the killing in 1931 in the State of Oklahoma of Manuel Gomez and Emilo Cortes Rubio.⁵ Finally, you will please state that it is the expectation of this Government to present to the Government of Mexico a formal claim for the payment of indemnity on behalf of the widow and minor children of Sustaita,

² *Opinions of Commissioners Under the Convention Concluded September 8, 1923 Between the United States and Mexico, February 4, 1926 to July 23, 1927* (Washington, Government Printing Office, 1927), pp. 289, 301.

³ General Claims Commission (U. S. and Mexico) 1929-1931, *Opinions of Commissioners Under the Convention Concluded September 8, 1923, as Extended by the Convention Signed August 16, 1927, Between the United States and Mexico, September 26, 1928, to May 17, 1929*, pp. 151-161.

⁴ *Opinions of Commissioners Under the Convention Concluded September 8, 1923, as Extended by Subsequent Conventions, Between the United States and Mexico, October 1930 to July 1931*, pp. 112-120.

⁵ See *Foreign Relations*, 1931, vol. II, pp. 708 ff.

but that it had hoped, as above indicated, that it would be unnecessary to take such action.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

812.1113 Sustaita, Antonio/34

The Chargé in Mexico (Boal) to the Secretary of State

No. 4810

MEXICO, June 2, 1937.

[Received June 9.]

SIR: I have the honor to refer to the Department's instruction 1517 of May 4, 1937, regarding the Antonio Sustaita case.

Before Ambassador Daniels left for the United States, he called on Licenciado Beteta, Undersecretary for Foreign Affairs, and left with him a brief memorandum, of which I enclose a copy. The Ambassador urged upon Licenciado Beteta the reconsideration of this case with a view to settlement by indemnification, as has been suggested. He informed the Undersecretary that a note expressing very definite opinions of our Government was in preparation. The purpose of this was to afford the Mexican Government an opportunity to meet us halfway in this matter with a view to adjustment before a note further extending legal arguments and fixing positions were delivered. The Ambassador was of the opinion that there was just a chance that if the note were held in reserve for a few days and it were indicated to Beteta that instructions of a very definite character had been received, the latter might see his way clear to finding some issue in the case which would result in early indemnification for the family of Sustaita.

The Ambassador suggested that a few days after his departure I should call upon Beteta with the Embassy's note and if necessary give it to him after further discussing the matter. Accordingly, on May 27th I called on Licenciado Beteta and went over the case with him. It became apparent from his entirely cordial but uncompromising attitude on the subject that no progress would be made by withholding the note any longer, since his position was apparently taken in accordance with what he considered to be a fixed general policy of the Mexican Government, of which he approves. I therefore gave him the Embassy's note 2182 of May 15, 1937,^a a copy of which is enclosed. I did not feel it advisable to go further into a discussion of the responsibilities of Governments than is indicated in the enclosed memorandum of our conversation without more definite instructions from the Department.

^a Not printed.

It would be of interest to the Embassy to receive from the Department an expression of its views and of our Government's policy on this general subject, with the thought that it may be advisable to discuss it again with Licenciado Beteta in the interest of pending and future cases.

It may be of interest to note that Licenciado Beteta definitely assumed in his conversation that Foreign Minister Puig had made a request for indemnity in the case of the Cortes Rubio murder. From the Embassy's records, this does not appear to have been the case.

Respectfully yours,

PIERRE DE L. BOAL

[Enclosure 1]

The American Embassy to the Mexican Ministry for Foreign Affairs

The Foreign Office under cover of its Note No. 33615 of April 14, 1937, transmitted to the Embassy of the United States of America a document setting forth the considerations prompting the Mexican Government to decline to pay an indemnity to the family of Antonio Sustaita.

As will be recalled, this was a brutal and cold-blooded murder, according to reliable reports, and the family of Sustaita was left in difficult circumstances.

It had been hoped by the Government of the United States that the sense of fairness and justice of the Mexican Government would be satisfied with nothing less than the prompt payment of a suitable indemnity for the wife and children of the deceased. In this relation, attention is invited to the payment by the Government of the United States to the Government of Mexico of an indemnity for the killing in 1931 of Manuel Gómez and Emilio Cortes Rubio, without its being necessary for the Government of Mexico to present a formal claim.

A formal note,⁷ dealing with other phases of the Sustaita case, including its legal aspects, is being prepared for transmittal to the Government of Mexico.

MEXICO, May 14, 1937.

[Enclosure 2]

Memorandum by the Chargé in Mexico (Boal)

[MEXICO,] May 27, 1937.

Pursuant to arrangements made with the Ambassador before his departure, I called today upon Licenciado Beteta to discuss the Sustaita case with him. I took with me the Ambassador's note 2182

⁷ No. 2182, May 15.

of May 12 [15], 1937, and a copy of his memorandum of May 14th, which the Ambassador has already left with Mr. Beteta. I told Beteta that pursuant to the Department's instructions we had prepared a note regarding the Sustaita case in answer to their note of April 14 (33615). I said we had hopes that the Mexican Government would see its way clear to adjusting this case before actual legal arguments were entered into on both sides, and it was with this hope that I brought the note personally, with the thought that he would perceive some way to settle the case by payment of a suitable indemnity to Sustaita's family as had been done in the case of the murder of Cortes Rubio and his companion.

Licenciado Beteta said he did not see what could be done. In his opinion, Puig had made a great mistake when he asked for indemnity for the murder of Cortes Rubio, thereby perhaps giving the impression that the Mexican Government subscribed to the theory of governmental financial responsibility for murders on national territory. In the case of Cortes Rubio, he said, the matter was a little different because the murder had been committed by the police, whereas in the Sustaita case the conflict had definitely occurred between private parties. He said he was in no way attempting to mitigate the failure of justice in the State of Tamaulipas to impose an adequate sentence on Sustaita's murderer. His Government would continue to seek to have the murderer adequately punished. However, he pointed out, the punishment came as the result of the application of State laws and the Federal Government had no right to interfere in this but could only suggest and exert influence. It was not in a position to take strictly legal steps to bring about the punishment. He said he could not subscribe to the theory set forth in our communications that failure of adequate punishment created a right to indemnity. The two, he said, were separate. Indemnity should be sought by civil action against the person bringing about the damage. It was impossible, he said, that his Government should be made financially responsible for every murder which occurred in Mexico. If the Government should recognize financial responsibility for the death of a foreigner, why not also for a Mexican?

I remarked that this did not seem to coincide with the attitude taken in adjusting claims, and Licenciado Beteta said that this was because the claims were for a definite period when revolutionary conditions prevailed. The Sustaita murder, however, had occurred under conditions which might be considered to be normal.

I said that personally I thought the Government's authority and police power in the country constituted a sort of insurance enjoyed alike by nationals and by foreigners when they came into the country.

The foreigner could not contribute to the maintenance of this insurance because he had no voice in the creation of the Government, as a national had. A foreigner coming into Mexico came in the belief that this insurance was adequate to prevent wilful harm being done to him, since the Government's punishment for such harm was calculated to be sufficient to discourage it. When the Government—and by that term I included the Government of States as created under the Constitution and laws of Mexico, as well as the Federal Government—failed to supply adequate punishment, it materially reduced the insurance against harm to foreigners. The man came into Mexico on the theory that the laws would be applied to protect his life through punishment of murder, and lost his life because such protection was so ineffective as to be held lightly. Through lack of adequate punishment, it seemed to me, he was the victim of a current condition for which the Government of the country was definitely responsible. Responsibility presumably entails financial compensation to the relatives of the deceased.

Licenciado Beteta said that while he would not disagree with me as to the logic of this, as a practical matter it was not possible for his Government to provide compensations wherever there had been inadequate punishment. What he had said regarding the difference between State and Federal jurisdictions should explain this. I said that in that case there remained only one course to us, which was to present a claim, as indicated in our note. This Beteta said his Government would of course consider when it was received.

P[IERRE] DE L. B[OAL]

812.1113 Sustaita, Antonio/35

The Secretary of State to the Ambassador in Mexico

No. 1589

WASHINGTON, June 16, 1937.

SIR: The receipt is acknowledged of your despatch No. 4810 of June 2, 1937, in relation to the possible payment of an indemnity by the Mexican Government on account of the inadequate sentence imposed upon Miguel Valero Rodríguez for the murder of Antonio Sustaita, an American citizen.

It appears from your despatch that the Mexican Under Secretary for Foreign Affairs was entirely unwilling to agree to any adjustment of this matter in advance of receiving the Embassy's formal note containing the representations directed in the Department's instruction No. 1517 of May 4, 1937, and that therefore following an interview with the Under Secretary in which that position was taken by him you delivered the note to him.

It is desired that the Embassy keep this matter before the attention of the Foreign Office with a view to the receipt at an early reasonable date of an answer to the note in question.

As amplifying statements contained in the Department's instruction of May 4, reference may be made to the following statement contained in a communication from the Secretary of State to the Minister of the United States to Mexico, of August 15, 1873:

"The rule of the law of nations is that the Government which refuses to repair the damage committed by its citizens or subjects, to punish the guilty parties or to give them up for that purpose, may be regarded as virtually a sharer in the injury and as responsible therefor." ¹⁰

Reference may also be made to the discussion in Moore's *Digest of International Law* (Volume VI, pages 792-799) of the cases of the murder in Turkish territory in May 1894 of Frank Lenz and of the murder in Honduras during the year 1888 of Charles W. Renton, both of whom were American citizens, and for the murder of whom and the subsequent miscarriage of justice resulting from failure to punish the murderers the Turkish and Honduran Governments, respectively, paid indemnity to the United States.

The views expressed by this Department in the indicated instruction to Mexico and in the course of the negotiations which resulted in the payment of indemnity for the murders of Messrs. Lenz and Renton are considered as correctly indicating the principles of international law which should govern in such cases, as was recognized by the Commissioners on the General Claims Commission, United States and Mexico, in the unanimous opinions they reached with regard to the cases enumerated in the Department's instruction of May 4, 1937.

With regard to the statement contained in the last paragraph of your despatch to the effect that the Embassy's records do not appear to show that the Mexican Government requested the payment of indemnity for the killing of Messrs. Gomez and Cortes Rubio, the Department informs you that a note received from the Mexican Embassy under date of November 20, 1931,¹¹ contains the statement that the Mexican Government considered the responsibility of the United States in that case to be indisputable and that appropriate satisfaction therefor should be given.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

¹⁰ John Bassett Moore, *A Digest of International Law*, vol. VI, p. 655.

¹¹ *Foreign Relations*, 1931, vol. II, p. 723.

313.1113 Sustaita, Antonio/87

The Chargé in Mexico (Boal) to the Secretary of State

No. 4962

MEXICO, June 28, 1937.

[Received July 6.]

SIR: I have the honor to refer to the Department's instruction No. 1589 of June 16, 1937, regarding the murder of Antonio Sustaita, an American citizen.

With further reference to my despatch No. 4810 of June 2, 1937, I have the honor to report that I have again discussed this matter with Licenciado Beteta, Undersecretary of State. In my conversation with Licenciado Beteta I referred orally to the precedents cited in the Department's instruction under reference and pointed out in particular that the Mexican Government's position seems to have been established in unequivocal terms in its note of November 20, 1931¹² to the State Department at Washington in connection with the deaths of Emilio Cortés Rubio and Manuel García Gómez. In this connection I have the honor to enclose, for the Department's convenient reference, a copy of a personal letter of December 8, 1931¹³ from Ambassador Clark to Mr. Herschel V. Johnson, then in the Division of Mexican Affairs, regarding this case.

I pointed out quite informally to Licenciado Beteta that if it was the Mexican Government's intention to change its theory and policy with regard to liabilities of governments, it could not but produce an unfavorable impression to have this change occasioned by the case of a most brutal and cold-blooded murder for which adequate punishment had not been provided. I told him that it would seem to me that if it was indeed as he indicated the purpose of the Mexican Government to change its position from that already stated in its note of November 20, 1931, I thought it would be more fitting if this were done after some adjustment of the Sustaita case has been reached. I pointed out that this would tend to relieve the action of any implication that it was being taken merely for the purpose of avoiding the payment of an indemnity in the case in question.

Licenciado Beteta agreed with me that the Mexican Government would stand in a much better light if it could first make the settlement of the Sustaita case and then proceed to define a policy according to its present views. I gathered that Licenciado Beteta had it in mind to outline the policy of the Mexican Government according to his own theories on the subject of responsibility. He said that the principal

¹² *Foreign Relations*, 1931, vol. II, p. 723.

¹³ Not printed.

difficulty lay in finding a legal means by which an indemnity could be paid without having to take the matter to the Mexican Congress for an appropriation where discussion and possible defeat was to be anticipated. He said, however, that he would study the matter with a view to trying to find some way of adjusting it by an indemnity, and would let me know the result of his studies. The above conversation was, of course, quite informal.

Respectfully yours,

PIERRE DE L. BOAL

312.1113 Sustaita, Antonio/38

The Secretary of State to Mr. Gordon Griffin of Griffin and Kimbrough, Attorneys at Law, McAllen, Texas

WASHINGTON, July 7, 1937.

SIR: The receipt is acknowledged of your letter dated June 22, 1937,¹⁴ in further regard to the possible payment of an indemnity by the Mexican Government on account of the inadequate sentence imposed upon Miguel Valero Rodríguez for the murder of Antonio Sustaita, an American citizen.

The Department is unable, on the basis of its present information, to determine whether there exists a valid claim against the Government of Mexico. If such claim does exist it must necessarily be based upon the failure of the Mexican authorities to impose an adequate penalty upon the accused or upon a denial of justice. Whether either of these conditions obtain can only be determined from the record of the court proceedings in the trial of the accused, a copy of which in translation would have to be furnished to the Department. It would be necessary to furnish also copies in translation of the applicable Mexican laws under which the charge was made and the penalty imposed. If the facts as alleged in the trial of the accused are controverted, then an affidavit of the facts as alleged by the claimant should be furnished. It will be necessary also to submit evidence of the American citizenship of the deceased and of the claimant at the time of death and now. This evidence may be in the form of birth certificates or certificates of naturalization or affidavits by two or more persons who have known the deceased and the claimants for a considerable period of time. Finally you will be required to submit evidence of the relationship of the claimant or claimants to the deceased or of any other basis of the claimant's interest in the matter.

If the claimant or claimants care to prepare and submit a case along the lines just indicated, the Department will examine it and inform

¹⁴ Not printed.

you whether there exists such a claim as might appropriately be submitted to the Mexican Government.¹⁵

Very truly yours,

For the Secretary of State:
JOSEPH R. BAKER
Acting Legal Adviser

812.1113 Sustaita, Antonio/39

The Chargé in Mexico (Boal) to the Secretary of State

No. 5089

MEXICO, July 22, 1937.
[Received July 29.]

SIR: I have the honor to refer to my despatch number 4962 of June 28, 1937, regarding the desire of the Department to obtain, from the Mexican Government, an indemnity for the family of Antonio Sustaita.

A note dated July 17, 1937, has today been received from the Foreign Office which, with reference to the Embassy's note of May 15, 1937,¹⁶ requests the proofs on which the request for this indemnity was based. Copies of the note, with translation, are enclosed.

I assume that in view of the legal aspects of this case and the attitude heretofore taken by the Mexican Government in the premises, as reported in various despatches, the Department may desire to formulate a statement of the bases of its request that an indemnity be paid or to instruct the Embassy concerning the form in which the proofs or evidence should be presented.

It seems probable that the Foreign Office is now convinced of the weaknesses of the position it has taken in this case (especially in the light of the Cortes Rubio case) and it is not unlikely that it will now seek to avoid payment of the indemnity on a different basis, i. e., by endeavoring to discredit any evidence presented by the United States Government. If this is so, it is desirable that the best available documentation be obtained for presentation to the Foreign Office.¹⁷

Respectfully yours,

PIERRE DE L. BOAL

¹⁵ No reply was received to this letter or to a letter of September 30, 1937, asking the attorneys whether they intended to submit evidence.

¹⁶ Neither printed.

¹⁷ No further action appears to have been taken in this case.

PANAMA

AGREEMENT BETWEEN THE UNITED STATES AND PANAMA PROVID- ING FOR THE MUTUAL RECOGNITION OF SHIP MEASUREMENT CERTIFICATES, SIGNED AUGUST 17, 1937

[For text of the agreement, signed at Washington, see Department
of State Executive Agreement Series No. 106, or 50 Stat. 1626.]

PARAGUAY

REVOLUTION IN PARAGUAY; RECOGNITION OF THE PAIVA GOVERNMENT

834.00/885

The Minister in Paraguay (Howard) to the Secretary of State

No. 379

ASUNCIÓN, May 4, 1937.

[Received May 25.]

SIR: I have the honor to report upon the present political situation:

Except for the activities of those affiliated with the present Government in pushing the organization of a new political party, the *Union Nacional Revolucionario*, no other activities have been permitted. In a recent conversation with the secretary of the new party, I was told that there were now enrolled therein 30,000 members. A few days later Dr. Stefanich, Minister for Foreign Affairs, told me the number was 35,000. It is very difficult to judge as to the strength of this new organization, whether as to the number of adherents or as to the degree of their loyalty, since it is undoubtedly true that many persons holding Government positions or hoping for favors have nominally affiliated with the new party as a matter of convenience.

Although there have been several recent rumors of supposed conspiracies and several former members of the present régime, including Bernardino Caballero, ex-Minister of Agriculture and ex-Minister of Hacienda, and Molas Lopez, former Mayor of Asunción, have been deported and others, including Colonel Caballero Alvarez, Commander-in-chief of the armed forces, removed from their official positions, the situation at present is quieter than at any time since the present régime assumed power and apparently it is more firmly entrenched than ever. However, I am very confidentially informed that the old Liberal crowd, practically all the leaders of which are in exile, is industriously at work in the attempt to overthrow the present régime and expect to make that attempt within a few weeks or months.

As long as the army remains united and in support of the present Government, any attempt at its overthrow would seem doomed to failure. Recent rumors have it that there is increasing dissatisfaction among the officials in the army with the present régime. Should a division in their ranks occur it might and probably would result in civil strife, the extent and results of which it is impossible to estimate.

An indication that the Government may not be as confident of popular support as it professes, may be found in its plans regarding the holding of elections. It will be recalled (See my despatch No. 228 of July 18, 1936¹) that it was expected to hold such elections early in the present year. A few days ago Dr. Stefanich told me that they now hoped to be able to reach some decision in this respect in July or August when the organization of the new party, the *Union Nacional Revolucionario*, should have been more completely accomplished and stated: "some want to hold the elections in February of next year, the second anniversary of the revolution,² but I fear that is too soon as it would have a bad effect to fix a date and then have to change it".

In conclusion it is my opinion that the *status quo* will be maintained for sometime yet unless the old Liberal crowd is able to reach at least a part of the army officials in which event interesting times may be expected.

Respectfully yours,

FINDLEY HOWARD

834.00 Revolutions/11a : Telegram

The Secretary of State to the Minister in Paraguay (Howard)

WASHINGTON, June 14, 1937—6 p. m.

8. The *New York Times* this morning published a report from its correspondent in Buenos Aires to the effect that a revolt had taken place in the Paraguayan Army because of its unwillingness to agree to the policy of the Paraguayan Government as regards the Chaco;³ and that the fall of President Franco was imminent.

Please telegraph immediately whether there is any basis of truth in this report.

HULL

834.00 Revolutions/12 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, June 15, 1937—2 a. m.

[Received 8:30 a. m.]

7. Department's 8, June 14, 6 p. m. Report of revolt inexact or at least premature. [Franco?] appears to be firmly in control. Although there is no outward manifestation thereof there is considerable uneasiness in army circles as well as among populace over Chaco situ-

¹ Not printed.

² See *Foreign Relations*, 1936, vol. v, pp. 858 ff.

³ See pp. 4 ff.

ation which is so involved with internal political conditions that any conjecture as to the outcome would be premature at this moment.

HOWARD

834.00 Revolutions/13 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 11, 1937—midnight.

[Received August 12—9:40 a. m.]

10. A highly placed person who is reliable and in a position to know, states that a division in the Chaco is in open revolt against central government. This information is strictly confidential and nothing appears to be known outside highest Government circles. City completely tranquil.

Many automobiles in front of and much movement at home of President Franco at this moment.

HOWARD

834.00 Revolutions/14 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 12, 1937—10 a. m.

[Received 1:28 p. m.]

11. My 10, August 11, midnight. Best information at present available is to the effect that a deflection of the Valois Rivarola regiment supposedly on duty in the Chaco has returned via Puerto Casado to Concepción which they now occupy. Revolting troops said to be under command of Aaranda. It is said that the movement is not against President Franco personally, the demand being that he dismiss his entire Cabinet and together with two other officers form a military triumvirate to govern the country pending the calling of elections which shall be done within 3 months. The capital is still quiet but pupils have been sent home from school and the various police stations are trying to organize the ex-service men in their respective localities for the support of the Government. It is said that a commission of three persons including a high ecclesiastic authority has been sent to Concepción to negotiate.

Copy to Buenos Aires.

HOWARD

834.00 Revolutions/15 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 12, 1937—noon.

[Received 2:20 p. m.]

12. My 11, August 12, 10 a. m. In an interview with Minister for Foreign Affairs this morning he stated that a number of army officers

have been in a state of unrest and that some with their troops are in control at Cosado and Concepción. He maintains that this has nothing to do with Chaco but is being done in conjunction with liberal elements outside the country to prevent the holding of the Eucharistic Congress next week and holds that a successful congress would effectively explode liberal contention that Paraguay is not well run; suppresses religious freedom; and is Communistic. He alleges that the Government is not alarmed and labeled that uprising as a pimple.

Copy to Buenos Aires.

HOWARD

834.00 Revolutions/18 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 13, 1937—9 a. m.

[Received 1:25 p. m.]

15. During early morning hours some slight disturbances in the city. Early morning delivery services suspended, streetcars not running, intermittent telephone service, ex-service men being called in and many other individuals in streets being impressed, cars coming into city being searched. At this moment some 200 troops equipped with machine guns are abiding near home of President Franco. Large number of troops just passing Legation en route to center.

Copy to Buenos Aires.

HOWARD

834.00 Revolutions/19 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 13, 1937—noon.

[Received 1:15 p. m.]

16. General Conference in session at the Palace since 10 a. m. endeavoring to resolve situation amicably. No [apparent omission] at this moment but it is possible today or tomorrow.

Copy to Buenos Aires.

HOWARD

834.00 Revolutions/20 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 14, 1937—9 a. m.

[Received 1:50 p. m.]

17. The tension evident here early yesterday has largely disappeared and entire calm prevails. Meager reports would indicate the same situation throughout the entire country. Naval and military officials in this vicinity are apparently acting in concert with the

troops in the Chaco and in the north. Yesterday, they took precautions to prevent the arming of the ex-service men and labor organizations, many of which were violently disposed to support the Government of Franco and it now appears that he has no recourse but to accede to the demands of the navy and army officers, whatever those demands may prove to be. The resignation of the entire Cabinet has been accepted by the President. It is said that the army and navy group desire Franco to remain as President with a cabinet agreed upon by them. No indications of his probable course of action are available. Late last night I talked with a friend who had just left the President and this friend stated that no decision had as yet been made but that it was hoped that a solution would be found during the day, depending upon the agreement of the revolting army leaders in the north whose arrival here is expected momentarily. It is possible that a few days may pass before a solution is reached.

Copy to Buenos Aires.

HOWARD

834.00 Revolutions/25a : Telegram

The Secretary of State to the Minister in Paraguay (Howard)

WASHINGTON, August 14, 1937—2 p. m.

11. The Bolivian Minister has informed the Department of the receipt of a telegram from his Government which states that his Government has information which indicates that "perhaps" the present disturbance in Paraguay is connected with the Chaco matter, for instance to prevent Paraguay's proceeding with the territorial discussions.

Please report your views by telegram.

Repeated to Am[erican] Embassy, Buenos Aires, for Braden.⁴

HULL

834.00 Revolutions/22 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 15, 1937—9 a. m.

[Received 10:28 a. m.]

18. Much worse tension during early evening hours yesterday. At midnight, naval forces broadcast Franco's resignation and that armed forces are in charge of the Government. Calm prevails.

Repeated to Buenos Aires.

HOWARD

⁴ Spruille Braden, delegate of the United States to the Chaco Peace Conference.

834.00 Revolutions/23 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 15, 1937—10 a. m.

[Received 12:45 p. m.]

19. Department's 11, Aug. 14, 2 p. m. In my opinion present disturbance here primarily is due to internal politics. However, the Chaco question has been made the football thereof and the overturn may have a bearing upon the Paraguayan attitude.

Although I do not believe that the delay of territorial discussions was the motive of the present movement it seems likely that whatever government is formed may attempt to urge the change of government as a pretext for delaying such discussions. It is believed that the present movement was promoted by the old Liberal leaders and their attitude may possibly be reflected in the new government.

Until a new government is formed and the personnel thereof known it is impossible to conjecture.

Repeat to Buenos Aires.

HOWARD

834.00 Revolutions/24 : Telegram

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

BUENOS AIRES, August 15, 1937—6 p. m.

[Received 6:40 p. m.]

[136.] From Braden. Department's telegram August 14, 2 p. m. In my opinion overthrow of Franco Government was due primarily to older army officers, distaste for governmental inefficiency and wholesale deportations, dislike for the Foreign Minister and to some definite fear that he and the Paraguayan Delegation were bungling the Chaco negotiations. They were egged on by old Liberal Party leaders. A favorable factor is that it appeared likely that Estigarribia and some Liberals will again be influential and to that extent the new government will enjoy greater authority and therefore will be better able to negotiate than the old one. However, I am disposed to expect intransigence from army elements at least to begin with to any territorial settlement involving withdrawal from the present lines of occupation. Paraguay may take advantage of the change to delay territorial negotiations as heretofore but I am confident the new government as soon as established will declare adherence to the protocols.

Payva, [*Paiva*] former Chief Justice, is reported to have accepted the provisional Presidency. If this is true it would indicate early return to constitutional government.

Paredes on behalf of the army has made friendly overtures to Estigarribia in an open telegram. [Braden.]

WEDDELL

834.00 Revolutions/25 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 16, 1937—9 a. m.

[Received 10:50 a. m.]

21. Felix Paivac [*Paiva*], former Vice President and recently professor of law, being sworn in as President 10 o'clock this morning. Cabinet announcements expected shortly afterwards.

Repeated to Buenos Aires.

HOWARD

834.00 Revolutions/27 : Telegram

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

BUENOS AIRES, August 17, 1937—9 a. m.

[Received 10:35 a. m.]

138. From Braden. My 136, August 15, 6 p. m. At best, if only for practical reasons, elections cannot be held for months. Paraguayans of every shade of political opinion have frequently contended that no treaty would be legal in the absence of ratification by constitutional legislature. The new government may insist on that line of reasoning and extend it in an attempt to delay exhaustive territorial negotiations.

I submitted at conference session today that recognition is accorded when a government has established internal order and declared its intention to respect the country's international obligations; furthermore, the request for recognition is in effect that government's declaration that it is competent to enter into binding international agreements; that government's competence is acknowledged by foreign powers when they grant [recognition]; therefore, the government cannot capriciously refuse to negotiate and sign a treaty especially when it is foreseen in existing international commitments, i. e., in Paraguay's case: the protocols.⁵ I suggest, therefore, that this situation be met by an adequate phrasing of our recognizing notes. My colleagues felt that to do so would be intervention. But it was agreed that the mediatory delegates recommend to their respective govern-

⁵ The protocols of June 12, 1935, and January 21, 1936, signed at Buenos Aires, provided for the solution of the Chaco conflict between Bolivia and Paraguay. See *Foreign Relations*, 1935, vol. iv, pp. 91 ff., and *ibid.*, 1936, vol. v, pp. 35 ff.

ments that recognition be withheld until the conference has had an opportunity to go into this matter; that recognition when granted be approximately simultaneous and in similar notes.

The Department's views are requested.

Repeated to Asuncion. [Braden.]

WEDDELL

834.01/39 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 17, 1937—11 p. m. [*a. m.*?]

[Received 2:11 p. m.]

23. I have just been invited by the Under Secretary for Foreign Affairs to meet this afternoon together with my colleagues Dr. Luis Argana Minister of Justice and Public Instruction, and Acting Minister for Foreign Affairs pending arrival tomorrow of Dr. Baez.⁶ The Under Secretary states that it is not the intention of this meeting to imply recognition of the new government which he states is being requested through the Paraguayan Legations. While my acceptance would undoubtedly be conducive to the creation of friendly feeling I shall make no move pending instructions.

I am trying to secure as much information as possible regarding the new government and its personnel and expect to forward same later in the day.

HOWARD

834.00/895 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 17, 1937—4 p. m.

[Received 8:20 p. m.]

24. My 21, August 16, 9 a. m. and 22, August 17, 11 a. m.⁷ The President and other members of the new government are all quite generally regarded as men of the highest type, level headed and dispassionate.

The announced purposes of the new regime are to call elections and return to constitutional government at the earliest possible date. In accepting the presidency, Dr. Paiva stated that he did so for a period not to exceed 6 months. It is nearly unanimous belief that this government intends to and will be able to carry out its announced intentions. As nearly as can be judged the new government has a very substantial measure of popular support and what is of perhaps greater importance there seems to be nearly unanimous support on the part of the army and navy officials. The apparent fact that the new gov-

⁶ Cecilio Baez, Minister for Foreign Affairs.

⁷ Latter not printed.

ernment is kindly regarded by the ecclesiastical authorities lends an additional element of support. The fact that the overturn was carried out without bloodshed has left the new government free of animosities which might otherwise exist. Although from twenty-five to thirty persons were temporarily detained while the movement was under way, I am informed that all but two or three have been released. It is generally understood that there will be under this government no political detentions or deportation. Under these circumstances and with popular support as well as that of the army and navy it would seem that the new government should be able to maintain itself in power. However, rumors have just reached me that there is considerable dissatisfaction in the army. It is impossible at this moment to express an opinion regarding these rumors or the extent of any dissatisfaction which may exist.

From the type of men composing the new government and from the intelligence displayed in effecting the change, it would seem reasonable to suppose that the convenience and necessity of complying with international agreements would be recognized. It will be recalled that one of the causes of the overthrow of the Ayala⁸ Government was the campaign attacking the protocols with reference to the Chaco question and also that the same type of attacks and propaganda has been used against the Franco Government for months past. Unfortunately, there has thus arisen among the populace a state of mind which would cause this or any other government to proceed with extreme caution in the Chaco question.

Repeat to Buenos Aires.

HOWARD

834.00 Revolutions/28 : Telegram

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

BUENOS AIRES, August 17, 1937—5 p. m.

[Received 5 : 55 p. m.]

139. From Braden. My 138, August 17, 9 a. m. In view of Paiva's having exacted from the military leaders their written agreement to his conditions for the acceptance of the presidency (see press despatches), those conditions themselves and his whole background and character, I fear he may take the position that an interim government such as his cannot sign or even negotiate a final peace treaty. This would prevent the conference proceeding with the fundamental question until a constitutional government were elected.

Repeated to Asuncion. [Braden.]

WEDDELL

⁸ Eusebio Ayala, former President of Paraguay. See *Foreign Relations*, 1936, vol. v, pp. 858 ff.

834.01/39 : Telegram

The Secretary of State to the Minister in Paraguay (Howard)

WASHINGTON, August 17, 1937—6 p. m.

12. Your no. 23, August 17, 11 a. m. arrived too late to enable the Department to give you instructions. Please report what took place at the meeting this afternoon, which it is presumed in the absence of specific instructions you did not attend.

HULL

834.01/40 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 18, 1937—11 a. m.

[Received 1:40 p. m.]

25. Department's 12, August 17, 6 p. m. Meeting not in a body, diplomats called at various times between 4:30 and 6 o'clock. Failing instructions I did not call. Minister for Foreign Affairs stated that the government is returning to the constitution of 1870 and that international obligations will be respected.

HOWARD

724.34119/978 : Telegram

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

WASHINGTON, August 18, 1937—7 p. m.

73. For Braden. Your 138, August 17, 9 a. m. The Department is of the opinion that a declaration by the new government in Paraguay, similar to the one made by the Busch government in Bolivia,¹⁰ to the effect that all international obligations will be respected, should furnish sufficient safeguard for the Chaco negotiations. You will please report the views of the other mediatory delegates regarding the phrasing of notes of recognition. Pending a further consideration of the matter, the Department does not wish you to take any position with regard to recognition without prior authorization from the Department. The Department especially desires to avoid any action that might result in the charge that this Government is endeavoring to force the Conference to take any position with regard to recognition of the new Government in Paraguay which could be construed as tantamount to intervention in their domestic affairs.

For your information, the Bolivian Minister in Washington called at the Department yesterday to discuss the situation in Paraguay. He expressed the opinion that the new Paraguayan government will give full assurances of its intention to respect its international obli-

¹⁰ See memorandum by Under Secretary of State Welles, July 19, p. 258.

gations including the Chaco peace protocols, but observed that he thought it would be proper for the Peace Conference, in the event it received a note from the Paraguayan Government, to inquire whether that Government is prepared to put into force the security measures accepted almost a year ago. The Minister was told that his views would receive immediate consideration.

Your telegram 65, May 8, noon,¹¹ reported that Bolivia had accepted the regulations and your 73, May 22, 4 p. m.,¹¹ reported that a Paraguayan note of May 18 unqualifiedly accepts them. Difficulties subsequently were raised by Paraguay but, although the regulations have not been put into effect, the Conference formally agreed on July 12 (your 97, July 12, 11 p. m.)¹¹ to reaffirm the resolutions of April 23 (regulations)¹² and of June 8.¹³

The Department, although not inclined to raise the question of Paraguay's intention to put into effect the security measures in connection with recognition, would nevertheless appreciate your views.

HULL

724.34119/971 : Telegram

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

BUENOS AIRES, August 18, 1937—7 p. m.

[Received 8:50 p. m.]

143. From Braden. My 139, August 17, 5 p. m. Paraguayan Minister to Argentina delivered today a note to the Foreign Office requesting recognition. In order to meet the problem posed by me on Monday the Argentine Minister for Foreign Affairs will deliver tomorrow confidentially to the Paraguayan Minister the following

"It is advisable that the new Paraguayan Government by note or telegram to the conference declare its purpose to comply with the pacts and agreements signed in Buenos Aires on the Chaco question and its intention to pursue the negotiations with the conference in a determined way to find a just solution of the fundamental question in accordance with the protocols in force".

It should be noted that "pacts" refers to the protocols and "agreements" to all other conference documents such as January 9 bases.¹⁴
[Braden.]

WEDDELL

¹¹ Not printed.

¹² Transit and Security Regulations, Annex 29 in *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), p. 108.

¹³ Ministerio de Relaciones Exteriores y Culto, *La Conferencia de Paz del Chaco, 1935-1939 (Compilación de Documentos)*, (Buenos Aires, 1939), p. 586; see also despatch No. 474, August 4, from the American Delegate, *ante*, p. 19.

¹⁴ Bases for Drafting Regulations in the Chaco, Buenos Aires, January 9, 1937; Annex 28 in *The Chaco Peace Conference*, p. 106.

724.34119/997

*Memorandum by the Chief of the Division of the American
Republics (Duggan)*

[WASHINGTON,] August 18, 1937.

Mr. Mackehenie of the Peruvian Embassy called and permitted me to read a telegram which the Embassy had received from the Peruvian Ministry of Foreign Affairs. The telegram stated that the Peruvian Government had reason to believe that the recent revolution in Paraguay was connected with the Chaco question and that as a result of the change in government there might be a renewal of the Chaco conflict. The telegram also instructed the Embassy to inquire what measures of consultation the United States Government proposed to take in connection with the recognition of Paraguay.

After expressing deep appreciation for the friendly way in which the Peruvian Government had approached this Government, I informed Mr. Mackehenie that the information so far available in the Department did not indicate that the revolution in Paraguay arose out of the Chaco conflict. I stated that it looked as though certain moderate elements which in the past had been disposed towards a settlement might be associated with the Government, which should dispose the Government to a more conciliatory rather than a more belligerent attitude. I then informed Mr. Mackehenie that the Department was instructing Mr. Braden, our Ambassador at the Chaco Conference, to confer with his colleagues, including the Peruvian Ambassador, regarding recognition of the new Paraguayan regime and to report fully to the Department. I stated that in this the Department was following the precedent set in connection with previous revolutions in Paraguay and Bolivia. I told Mr. Mackehenie that I would be glad to get in touch with him as soon as word had been received from Mr. Braden.

LAURENCE DUGGAN

724.34119/991

*The American Delegate to the Chaco Peace Conference (Braden) to
the Secretary of State*

No. 476

BUENOS AIRES, August 19, 1937.

[Received August 25.]

SIR: I have the honor to refer to my telegram No. 136, August 16 [15], 6 p. m. and the Department's telegram No. 73, August 18, 7 p. m.

In that connection I enclose the statement that I read to the Conference on August 16th, discussing recognition of the new Paraguayan government.

It will be noted that I stated that I had not consulted with my government and merely presented the matter for discussion.

Respectfully yours,

SPRUILL BRADEN

[Enclosure]

*Statement Made by the American Delegate (Braden) at
Conference Session, August 16, 1937*

I wish to lay before the Conference, a question for discussion: Provisional President Paiva, I understand, today in a press interview, declared the new government's intention to respect Paraguay's international obligations and to live in amity with its neighbors. This and other information to hand indicates that recognition may shortly be advisable. In this connection, I would recall to my distinguished colleagues that repeatedly, both the delegation headed by Dr. Ramírez¹⁵ and the opposition leaders, such as Dr. Zubizarreta,¹⁶ have contended that no treaty—especially on the fundamental question—would be legal in the absence of ratification by a properly elected legislature. They have even gone so far as to claim that the direct negotiations could not be carried forward exhaustively until a constitutional government was in office. It is this problem which I feel the mediators should carefully consider. If you will bear with me, I first would like to present certain generalizations:—

Quaere: Can the government of a country which is illegal according to its own constitution, be bound by international agreements entered into by it? Will subsequent governments of the same country be bound by those agreements?

These two questions are answered by the following:

"It is a sound general principle, and one to be laid down at the threshold of the science of which we are treating, that international law *has no concern with the form, character, or power of the constitution or government of a state*, with the religion of its inhabitants, the extent of its domain, or the importance of its position and influence in the commonwealth of nations." (Italics mine.) (Phillimore, Int. Law, 3rd Ed. I, 81 quoted in Moore, Dig. I, 15).

Thus, if a government declares itself to be competent to enter into diplomatic relations and to perform international acts and this faculty has been formally recognized to it, the question of the legality or

¹⁵ J. Isidro Ramírez, Delegate of Paraguay to the Chaco Peace Conference.

¹⁶ Gerónimo Zubizarreta, Chairman of the Paraguayan Delegation to the Chaco Peace Conference.

illegality of the government itself is not of international concern. In other words, if a government considers itself competent to appoint ministers and other official spokesmen, and these ministers and spokesmen are accepted and recognized, that same government cannot plead incompetence to sign a binding agreement.

President [*Secretary of State*] Jefferson, in an instruction to Governor [*Gouverneur*] Morris on March 12, 1793, laid down that the United States "surely cannot deny to any nation that right whereon our own government is founded—that *everyone may govern itself according to whatever form it pleases*, and change these forms at its own will and that it may transact its business with foreign nations through whatever organ it thinks proper, whether king, convention, assembly, committee, president or anything else it may choose. The will of the nation is the only thing essential to be regarded."¹⁷

The United States has, upon occasion, refused to admit that a government claiming to represent the will of the nation represented it in fact. Recognition was then withheld. Such action does not appear likely in the case of the new government. On the contrary, all information, so far received, indicates that the Paiva government is competent to enter into international commitments and may shortly be recognized.

Paraguay is an independent sovereign state. Its new government will have come into power, (according to the published statement of Colonel Paredes, leader in the recent movement and Chief of the army) through the revolution on February 17, 1936, followed by the one on August 13, 1937. The new Paraguayan government, if recognized, will enjoy all the attributes of a sovereign state and these will have been expressly recognized by the mediatory powers, including the United States, as well as by other sovereign nations.

The new Paraguayan government will possess five qualifications as essential for a state in international law:

- 1) A people sufficient in number to maintain and perpetuate itself.
- 2) A fixed territory occupied by the inhabitants (the territory in litigation does not affect the other boundaries which are fixed).
- 3) An organized government "expressive of the sovereign will within the territory, and exercising in fact supremacy therein".
- 4) The possession and use of the right to enter into foreign relations will have been recognized to it.
- 5) The inhabitants are recognized as having attained that degree of civilization which enables them "to observe, with respect to the outside world, those principles of law which by common assent govern the members of international society in their relations with each other".

To summarize, recognition by my government will, I believe, be based upon the power of the new government: (a) To maintain inter-

¹⁷ Moore, *A Digest of International Law*, vol. I, p. 120.

nal order, i. e. police and taxing power. (b) To carry out the country's international obligations.

It should be kept in mind, as an accepted principle of international law, that recognition of a state is a privilege and not a right.

This Conference and the mediatory powers here represented have a peculiar interest and special responsibilities in the question of recognition: (1) For us and for the parties, the protocols are fundamental. The fulfillment and completion of the provisions of those two documents, self-evidently require the enactment of additional agreements; these are, in fact, contemplated in the protocols. Therefore, it might even be alleged that these additional agreements implicitly were authorized by the Bolivian and Paraguayan Congresses when they ratified the protocols. (2) Request for recognition is, in effect, the new government's declaration that it is competent to enter into binding international agreements. (3) By granting recognition we acknowledge that government's competence. Hence the new government cannot capriciously refuse to enter into the direct negotiations nor to sign a treaty which will settle the territorial-boundary differences or provide for arbitration of that question; especially is this true when such a treaty is foreseen in existing international commitments, i. e. in Paraguay's case: the Protocols.

Therefore, although I have not consulted on the matter with my government, in the cause of peace, and in order to avoid future obstacles being placed in our path, to comply with our responsibilities as mediators, and in short, to insure the success of our undertaking, I submit for the consideration of my fellow delegates that if, as now appears likely, we decide that the new Paraguayan government should be recognized, that we then adopt the procedure followed in the two recognitions according during 1936, that is to say, each of the mediatory powers, more or less simultaneously, present similar notes to the new government, and that in these notes there be included a phrasing which will condition our recognition not only on the new government's declared intention of respecting its international obligations but also upon the new government's recognizing itself to be competent to carry out its obligations, to enter direct negotiations, and to fulfill the provisions of the Protocols by entering into other binding agreements. Nothing in this procedure would prevent a subsequent ratification of the new agreements by a congress, when elected, if either one or both of the parties so desired.

Mr. President, I have not made the foregoing statement as a declaration of policy. I am not proposing a thesis but simply place the matter before the Conference in the belief that advantage may be taken of the situation so to phrase our respective notes of recognition

as to forward the attainment of our objectives. Needless to say, the injection of this delicate subject into our notes of recognition must be done skillfully and carefully.

724.34119/979 : Telegram

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

BUENOS AIRES, August 19, 1937—6 p. m.

[Received 7:28 p. m.]

144. From Braden. Your 73, August 18, 7 p. m. I wish to reassure the Department that the suggestion I made last Monday to the Conference made clear that I was not speaking for my Government nor proposing a policy but simply bringing the matter up for consideration. Copy of statement air mailed today.

The usual declaration to the effect that all international obligations will be observed would leave an opening for Paraguay to contend that (a) direct negotiations and a final treaty could only be effected by a constitutionally elected government; (b) the January 9 bases and the regulations are illegal. Such a stand would leave the Conference in a hiatus for several months and would be definitely disturbing in Bolivia.

Under the best of circumstances we may expect a continuation of the Paraguayan policy of delay but if the suggestion of the Argentine Minister for Foreign Affairs, reported in my telegram 143, August 18, 7 p. m., is accepted, adequate precautions will have been taken and the question of phrasing will not arise. Before going further into the matter I believe it wise first to learn the Paraguayan reaction to the Foreign Minister's suggestion.

Does the Department approve of approximately simultaneous and similar notes of recognition? I will telegraph my colleagues' views as soon as they are defined and any suggested draft. [Braden.]

WEDDELL

834.01/42 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 19, 1937—midnight.

[Received August 20—9:45 a. m.]

28. Because the presence here for the Eucharistic Congress of the Papal Legate Cardinal Copello an invitation from the provisional President of the Republic and wife directed to the American Minister to attend a banquet in honor of the Legate, has been received by this Legation. If recognition of the new government is to be accorded

by Saturday when the banquet is to be held it would be highly convenient if I could reply to the invitation even some time tomorrow. The Brazilian Minister today extended recognition of his Government to the new regime and I am informed that at least one other colleague will follow suit tomorrow.

HOWARD

724.34119/979 : Telegram

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

WASHINGTON, August 20, 1937—3 p. m.

74. For Braden. The Department would approve in principle of the procedure mentioned in the last paragraph of your 144, August 19, 6 p. m. However, the American Minister at Asuncion has reported that the Brazilian Minister extended the recognition of his Government on August 19. No communication regarding recognition has as yet been received at the Department from the Paraguayan Minister in Washington. Please continue to keep the Department informed by telegram regarding developments.

HULL

934.00/897

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

[WASHINGTON,] August 20, 1937.

At my request the Paraguayan Minister called. I told the Minister that several of the new cabinet members were not known well to the Department and that I would appreciate anything he would care to say regarding the new Government.

Señor Busk Cudas stated that he knew well and favorably the new President, Dr. Paiva, and Doctors Cecilio Baez, the new Minister of Foreign Affairs, and Dr. Argaña, the new Minister of Public Instruction. The first two, Dr. Paiva and Dr. Baez, are of considerable experience in government but have been retired from political life for some time. He thought that they would probably give the tone to the administration and if his belief is correct the Government will be decidedly conservative. The only objection to Drs. Paiva and Baez would be their age. The other men in the Cabinet who Señor Busk Cudas knows, have good reputations.

Señor Busk Cudas stated that Dr. Paiva followed the opposition to Dr. Ayala at the time the split in the Liberal Party occurred in 1923. He is married to a sister of ex-President Schaerer. The Minister doubted, however, whether this fact meant that the new govern-

ment would be opposed to Dr. Ayala and his faction, because Dr. Paiva has been out of politics for so many years.

LAURENCE DUGGAN

834.00 Revolutions/29

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 320

LA PAZ, August 20, 1937.

[Received August 26.]

SIR: I have the honor to report that the Bolivian press has been most guarded in its references to the overthrow of the Franco Junta in Paraguay and has done little more than to publish Associated Press and United Press releases reporting the course of events in Paraguay. This cautiousness reflects the uncertainty existing in Bolivian Government circles as to what effect the change in the administration may have on the course of the Chaco peace negotiations. Bolivia anxiously awaits indications of the attitude of the new Paraguayan regime towards the Chaco problem.

The Sub-Secretary of Foreign Relations mentioned to me he feared that one of the main causes of the change was the desire of Paraguay to liberate itself from the commitments made by the Ayala and Franco governments respecting the Chaco and that the leader of the movement is known to be most obdurate against any concessions by Paraguay that might make an agreement possible. Mr. Anze Matienzo reminded me that one of the very first acts of Colonel Busch upon assuming the Provisional Presidency was to communicate to the Chaco Peace Conference his intention of abiding fully by the provisions of the Protocols. This had been done primarily with the hope that it might be a precedent to any change of regime in Paraguay.

La Razón of August 17th editorially pointed out that the change in regime brought up three aspects: 1. To know whether or not the new government will respect existing treaties; 2. to know in what sense the new regime will hurry to regularize its relations with the Buenos Aires Peace Conference; 3., and, finally, to define in what measure the attitude of the army can exercise a control over the ex-combatant elements which, under the overthrown government, showed themselves stubborn to all pacific understanding. A copy and translation¹⁸ of this editorial are enclosed.

El Diario of August 18th reported that during a press interview Dr. Fabián Vaca Chávez, Bolivian Minister of Foreign Relations,

¹⁸ Not printed.

called attention to an article in the *Crítica*, of Buenos Aires, in which mention was made that Lt. Colonel Ramón L. Paredes, head of the August 13th revolution, was the chief of the garrison in the Chaco who refused to recognize the orders of Colonel Franco in connection with putting into effect the regulations governing the zone of separation. Dr. Vaca Chávez is reported to have commented that no official information had been received as to the attitude of the new government on international matters, but that the attitude of Lt. Colonel Paredes brought up a question which should be dispelled at the earliest opportunity.

On August 18th *La Razón* headlined that Argentina had helped the revolution of Lt. Colonel Paredes and quoted the following despatch to *Jornal do Brasil* from the *Agencia Brasileira*, Asunción:

"The revolution which has just modified the constitution of the Paraguayan Government assumes considerable importance from the point of view of South American constitutional policy. The revolution was directed especially against the international politics of Franco and Chancellor Stefanich, whose orientation in matters of continental policy was looked upon with disfavor by certain elements closely allied to the Argentine and which suffered a strong influence from Buenos Aires."

Respectfully yours,

JOHN J. MUCCIO

724.34119/983 : Telegram

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

BUENOS AIRES, August 20, 1937—8 p. m.

[Received 10:10 p. m.]

147. From Braden. Your 74, August 20, 3 p. m. The Brazilian Delegate doubts that his Government has recognized because day before yesterday he received cable approval of procedure referred to in last paragraph of my 144, August 19, 6 p. m. Uruguayan Delegate states his Government has instructed representative in Asuncion to recognize but first to consult with other mediatory representatives. Despite the foregoing all delegates agreed meeting this afternoon to recommend to our respective governments that no action be taken on recognition at least until the Conference has an opportunity to consider the Paraguayan answer to the suggestion of the Argentine Minister for Foreign Affairs, reported in my telegram 143, August 19 [18], 7 p. m. which suggestion was delivered to the Paraguayan Minister today. The Argentine Minister for Foreign Affairs has requested Cardinal Copello, now in Asuncion, to urge Paraguayan

acceptance of his suggestion and to the same end Argentine Minister in Paraguay is returning there by plane Monday.

9:00 o'clock. Argentine Minister for Foreign Affairs informs me that the Paraguayan Minister telephoned that he has been instructed to deliver note accepting suggestion made by the Argentine Minister for Foreign Affairs. Before commenting I prefer to see the note itself. [Braden.]

WEDDELL

834.01/42 : Telegram

The Secretary of State to the Minister in Paraguay (Howard)

WASHINGTON, August 21, 1937—1 p. m.

14. Your 28, August 19, midnight. Braden reports under date of August 20 that the Brazilian delegate doubts that his Government has extended recognition because the Brazilian delegate received cable approval on August 18 for procedure of approximately simultaneous and similar notes of recognition from the mediatory governments. The Uruguayan delegate informed Braden that his Government had instructed the representative in Asunción to recognize but first to consult with other mediatory representatives. The mediatory delegates in Buenos Aires agreed on August 20 to recommend to their respective governments that no action be taken on recognition at least until the conference has an opportunity to consider the Paraguayan reply to the suggestion of the Argentine Minister for Foreign Affairs that the new Paraguayan Government declare to the conference its purpose to comply with the pacts and agreements signed in Buenos Aires on the Chaco question and its intention to pursue the negotiations with the conference in a determined way to find a just solution of the fundamental question in accordance with the protocols in force. The Argentine Minister for Foreign Affairs has informed Braden that the Paraguayan Minister telephoned that he had been instructed to deliver the note accepting the suggestion made by the Argentine Minister for Foreign Affairs. Braden has informed the Department that he is reserving comment until he has seen the note itself.

This telegram is being repeated to Braden with instructions to communicate with you by telephone regarding the question of recognition. The Department will send further instructions as soon as possible.

You may accept the invitation to attend the President's banquet if the majority of the representatives of the other mediatory governments have accepted.

HULL

724.34119/983 : Telegram

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

WASHINGTON, August 21, 1937—1 p. m.

76. For Braden. Your 147, August 20, 8 p. m. The following telegram has been sent to the Legation at Asunción: (Here quote telegram to Am[erican] Legation, Asunción.¹⁹)

Please communicate with Howard by telephone as soon as possible and telegraph the Department the results of your conversation.

HULL

724.34119/984 : Telegram

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

BUENOS AIRES, August 21, 1937—8 p. m.

[Received 9:12 p. m.]

From Braden. Your 76, August 21, 1 p. m. telephoned to Howard, very bad connection. Insofar as I could hear conversation may be summarized as follows:

"Brazilian Minister states he has recognized. Uruguayan is about to do so. He has not consulted with Howard. The American Minister has heard nothing of the Argentine Minister for Foreign Affairs' suggestion. He concurs in fears expressed in my telegrams 138, August 17, 9 a. m., and 139, August 17, 8 [5] p. m.; he agrees recognition may be deferred until Tuesday or Wednesday but naturally, from his viewpoint, wishes to recognize as soon as possible. He says undue delay might upset present Government though he does not think it likely. There has been no concerted action by the mediatory representatives in Asuncion.[""]

Repeated to Asuncion. [Braden.]

WEDDELL

724.34119/983 : Telegram

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

WASHINGTON, August 23, 1937—1 p. m.

77. For Braden. Inasmuch as the information regarding recognition given you over the telephone by Howard appears at variance with that contained in your 147, August 20, 8 p. m., you are requested to cable fully at once the situation as you understand it. If the note mentioned in the last paragraph of your 147, August 20, 8 p. m., has been received from the Paraguayan Minister please telegraph pertinent section.

¹⁹ *Supra.*

This Government is willing to accord recognition simultaneously with the other mediatory countries. However, if those countries are not cooperating it is essential that the Department be kept fully and currently informed regarding their recognition moves.

HULL

724.34119/985 : Telegram

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

BUENOS AIRES, August 23, 1937—7 p. m.

[Received 10:15 p. m.]

152. From Braden. Department's 77, August 23, 1 p. m. The Brazilian delegate has shown me telegrams exchanged with his Foreign Office from which it appears that the matter was mishandled in Rio. The fact remains Brazil has recognized, which of course may weaken Conference efforts to obtain adequate assurances from the new government. The Uruguayan delegate informs me his Foreign Office does not believe their representative has recognized yet; instructions have again been given him to consult other mediatory representatives. The Uruguayan delegate does not think his country's recognition will be given until remaining mediatory powers do so but in my opinion Uruguayan cooperation should not be counted on.

The Argentine Minister for Foreign Affairs²⁰ misinformed me on Friday night for the note received from the Paraguayan Minister was not a reply to the suggestion cabled in my telegram 143, August 18, 7 p. m., but was a note addressed not to the Conference but to the Foreign Office declaring Paraguay's intention to respect international agreements. It appears likely that Paraguayan Minister because of pique with new government did not transmit Argentine Minister for Foreign Affairs' suggestion. The President of Paraguay told Cardinal Copello yesterday that he desired the Argentine Minister for Foreign Affairs to indicate a satisfactory procedure based on Paiva's published declaration. Therefore S. Lamas suggestion will be submitted to Paiva by the Cardinal or by the Argentine Minister at Asuncion and we should have a definite answer within the next 24 to 48 hours. The delegates agreed today that meanwhile we should await this answer. Paiva's statement published yesterday was as follows:

"With regard to foreign policy the provisional Government will comply strictly with the pacts and covenants in accordance with the provisions of the Constitution. The state will put all its good will

²⁰ Carlos Saavedra Lamas.

at the service of the high ideals of concord and peaceful international coexistence which has always inspired the governments of Paraguay and will pay particular attention to the negotiations with the peace conference in Buenos Aires with which it will cooperate efficaciously so that its action will develop in an atmosphere of cordial understanding in order that from it may come peace hoped for by the continent and particularly the two countries which were in armed conflict."

In my opinion the situation is as follows:

Acceptance by Paraguay of the S. Lamas suggestion would put the Conference in a better position to demand active territorial negotiations and compliance with the January 10 [9] bases and regulations. On the other hand even if the suggestion is accepted and a statement made in line with my 143, August 18, 7 p. m., Paraguay can find a way to delay negotiations. If the statement is not made we can definitely expect stalling for several months or until a constitutional assembly is elected there.

Notwithstanding the above even if the desired statement from Paraguay is not forthcoming within 48 hours further withholding of recognition might be interpreted by the Paraguayan Government as undue pressure and it would probably be best to resign ourselves to further delays and proceed to recognize.

Repeated to Asuncion. [Braden.]

WEDDELL

724.34119/986 : Telegram

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

BUENOS AIRES, August 25, 1937—11 a. m.

[Received 11:23 a. m.]

154. From Braden. My 152, August 23, 7 p. m. Arrival in Asuncion of Argentine Minister to Paraguay was delayed by fog. No word received from him yet. Paraguayan Minister for Foreign Affairs sent Conference President noncommittal telegram of salutation and intention to cooperate. Will telegraph further after meeting this afternoon. [Braden.]

WEDDELL

834.01/48a : Telegram

The Secretary of State to the Minister in Paraguay (Howard)

WASHINGTON, August 25, 1937—7 p. m.

15. Associated Press despatch from Asuncion dated August 22 reports announcement by Paraguayan Foreign Office that Brazil, Argen-

tina and Uruguay had recognized the new government. Please telegraph all available information.

For your information, this Government has not received any communication or oral message from the new Paraguayan Government regarding the change of government or recognition.

HULL

724.34119/986 : Telegram

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

WASHINGTON, August 25, 1937—7 p. m.

80. For Braden. Associated Press despatch from Asuncion dated August 22 reports announcement by Paraguayan Foreign Office that Brazil, Argentina and Uruguay had recognized the new government. Your 154, August 25, 11 a. m., indicates that the report as concerns Argentina is not correct. Please confirm.

HULL

724.34119/988 : Telegram

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

BUENOS AIRES, August 25, 1937—8 p. m.
[Received 8:08 p. m.]

156. From Braden. My 152 [154], August 25, 11 a. m. Paraguayan Minister for Foreign Affairs' telegram to Conference President, while not as specific as desired, was considered as warranting mediatory powers proceeding to recognize. Argentina and Chile intend to do so tomorrow; Peru tomorrow or next day. I recommend that the United States recognize tomorrow if possible. I would appreciate being advised when recognition is extended.

Paraguayan Minister for Foreign Affairs' telegram of August 24 follows:

"Having taken charge today of the portfolio of foreign relations I comply with the duty of sending Your Excellency and your honorable colleagues the expression of my personal salutation declaring that it is the intention of my Government to collaborate for the preservation of that entity in order to carry to a good end the purposes which created it, without detriment to the agreements adopted in its previous deliberations."

I have informed Howard. [Braden.]

WEDDELL

834.01/49 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 26, 1937—9 a. m.

[Received 10:34 a. m.]

29. Department's 15, August 25, 7 p. m. The only countries which have officially recognized the new government, Cuba, Brazil and Uruguay. Chilean and Argentine Ministers have just received authority to recognize but are waiting until this afternoon in order to do so simultaneously with the United States if possible. Peru expecting authority momentarily.

Under Secretary for Foreign Affairs informed me this morning that recognition was not requested through Paraguayan Ministers accredited to countries not attending Minister for Foreign Affairs' informal meeting on August 17. See my telegram 23, August 17, 1 [11] p. m. [a. m.?] and Department's 12, August 17, 6 p. m. Therefore, Busk Codas has received no instructions. It is understood that some European Missions have received authority to recognize at their discretion and subject to action by the mediatory powers.

HOWARD

724.34119/993c : Telegram

The Secretary of State to the Minister in Paraguay (Howard)

WASHINGTON, August 26, 1937—noon.

16. You will request an interview with the Minister for Foreign Affairs at the earliest opportunity today and hand to him a note containing the following statement.

"I have been instructed by my Government to inform Your Excellency that, having noted with satisfaction the statement regarding foreign policy and the Chaco Peace Conference negotiations made by His Excellency the President of Paraguay and published on August 22, as well as Your Excellency's telegram of August 24 to the President of the Peace Conference, the Government of the United States of America will be pleased to maintain the friendly relations that have so happily existed between our two countries".

Please report immediately by telegram when the note is delivered and include in your report any statement made in reply by the Minister for Foreign Affairs.

HULL

724.34119/994 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, August 27, 1937—noon.

[Received 1:40 p. m.]

29. Bis. Department's 16, August 26, noon. I handed recognition note to the Minister for Foreign Affairs at 10 a. m., today. Due to his indisposition the interview was short and aside from expressing his pleasure he made no statements of importance.

Repeated to Buenos Aires.

HOWARD

834.00 Revolutions/33 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, September 7, 1937—7 a. m.

[Received 11:15 a. m.]

33. Surprise uprising started in the city during the night. All traffic paralyzed. Minister Howard trapped in Union Club but apparently in no immediate danger. He reports by telephone that streets are filled with opposing marine and police troops and that the latter have just issued call to the ex-combatants and workmen to rally to their standard. Numerous rumors but no developments nor actual fighting at present moment.

Repeated to Buenos Aires.

HOWARD

834.00 Revolutions/34 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, September 7, 1937—9 a. m.

[Received 10:20 a. m.]

34. Have just arrived at Legation. Unconfirmed rumors allege that disturbances due to the effort on the part of Minister of War to oust Minister of Interior. President Paiva reported attempting some solution. Movement appears to be assuming ex-combatant hue. Tension increasing.

Repeated to Buenos Aires.

HOWARD

834.00 Revolutions/36 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, September 7, 1937—noon.

[Received September 8—12:20 p. m.]

35. Shooting going on in city and suburbs. Ex-combatant circulars and radio announcements state that uprising is for vindication of Franco and the February revolution.²¹ As all communications are cut off it is impossible to obtain any authoritative information.

Repeated to Buenos Aires.

HOWARD

834.00 Revolutions/35 : Telegram

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

BUENOS AIRES, September 7, 1937—7 p. m.

[Received 7:35 p. m.]

168. From Braden. Impossible communicate with Asuncion by telephone. Apparently strict censorship. Last word which came through to the press here at 3:00 o'clock was that new Government has been established headed by triumvirate consisting of Colonels Franco, Juan Ayala and Smith and that there was fighting in the streets.

During informal conversation with the Brazilian Delegate and me this afternoon, Franco stated he had been called back to Asuncion and was leaving by plane tomorrow morning. He expects to resume the presidency with increased authority. He says Stefanich is not returning with him and new Cabinet will be appointed. He promised full cooperation to speed negotiations and that one of his first official acts will be to declare Chapter 2 of the regulations²² in force.

Will be repeated to Asunción. [Braden.]

WEDDELL

834.00 Revolutions/37 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, September 8, 1937—10 a. m.

[Received 1:50 p. m.]

36. Heavy fighting in city and suburbs yesterday afternoon and during night with all communications cut. Revolutionists held con-

²¹ See *Foreign Relations*, 1936, vol. v, pp. 858 ff.

²² See Transit and Security Regulations, Chapter II, Civil-Police Service and Withdrawal of Commands and Nuclei of Troops, in *The Chaco Peace Conference*, p. 112.

trol of central portion of city. At present moment the Government has resumed control of all sections except a few isolated spots which it is now cleaning up. Uprising said to have been the work of Major Martin Cich with few regular troops plus a small section of the navy and the major portion of the police force together with a considerable number of ex-combatants and laborers, most of the latter it is alleged being of Communist tendencies. No reliable information available as to conditions in rural districts.

Repeated to Buenos Aires.

HOWARD

834.00 Revolutions/38 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, September 9, 1937—11 a. m.
[Received 11:40 a. m.]

37. My 36, September 8, 10 a. m. Government has situation well controlled. Business going on normally this morning although there are still some armed troops patrolling. Minister for Foreign Affairs states that the country districts are quiet.

Repeated to Buenos Aires.

HOWARD

834.00 Revolutions/41 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, September 10, 1937—9 a. m.
[Received 11:05 a. m.]

38. Presidential decree places all Paraguay in state of siege for period of 2 months starting September 9. All quiet but uneasiness still evident.

Repeated to Buenos Aires.

HOWARD

834.00 Revolutions/43

The Minister in Paraguay (Howard) to the Secretary of State

No. 456

ASUNCIÓN, September 17, 1937.
[Received September 30.]

SIR: I have the honor to refer to my despatch No. 451 of September 10, 1937²³ regarding the recent political disturbances and to inform the Department that, while there continues to be considerable uneasiness and tension, Asunción is quiet and business is going on almost

²³ Not printed.

normally. All information coming in from the country districts is that all is quiet.

The police regulations regarding meetings remains in force as does the rule that no one is to be on the streets after ten p. m. There are many patrols out all night and they start warning pedestrians and persons in wheeled traffic as early as nine-thirty that it is time to get off the streets. There have been a number of instances where police have searched persons for arms before ten o'clock, several instances of search as early as seven o'clock having been reported.

There was considerable rifle firing at night on the 12th, 13th, and 14th. However, since that time there have only been random shots. Two or three deaths from bullet wounds have been reported.

The city was full of government military trucks and foot patrols during the night of the 12-13. It is obvious that Colonel Luis Irrazabal was contemplating some move, the details of which are not as yet available (See despatch No. 455 of September 17, 1937).²⁴ However, the government was prepared for such a contingency and there was no disturbance.

The total number of people who sought and were granted asylum in the Mexican, Peruvian, Argentine, Uruguayan and Cuban Legations, as published in the local press, was 26. All have been granted travel documents and have left for the Argentine or Uruguay. It is reported that a number of persons implicated in the last uprising attempted to enter the Argentine at Clorinda and other nearby points but that they were turned back by the Argentine authorities.

Respectfully yours,

FINDLEY HOWARD

²⁴ Not printed.

VENEZUELA

NEGOTIATIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND VENEZUELA ¹

611.3131/72 : Telegram

The Chargé in Venezuela (Villard) to the Secretary of State

CARACAS, January 11, 1937—6 p. m.

[Received 8:35 p. m.]

2. Department's telegrams No. 54, December 19, 3 p. m.,² and 57, December 31, 6 p. m.³ Note from Foreign Minister received today quotes following communication from Minister of Hacienda:

"In agreement with the opinion expressed by the office under your worthy charge and in consideration of the treatment applied by the United States of America to Venezuelan products imported into that country this Ministry has notified the customs authorities of the Republic that the customs benefits conceded to the French Republic by the Franco-Venezuelan agreement of August 7 [6], 1936,⁴ should be extended to products originating in the United States of America".

This apparently removes all existing cases of discrimination. If others should appear later I have no doubt that most-favored-nation treatment will be granted.

VILLARD

611.3131/74 : Telegram

The Chargé in Venezuela (Villard) to the Secretary of State

CARACAS, January 12, 1937—2 p. m.

[Received 4:50 p. m.]

4. Department's telegram No. 57, December 31, 6 p. m.⁵

In a discussion of the proposed trade agreement today the Foreign Minister ⁶ stated that in view of the removal by his Government of the

¹ For previous correspondence, see *Foreign Relations*, 1936, vol. v, pp. 955 ff.

² *Ibid.*, p. 959.

³ *Ibid.*, p. 963.

⁴ Agreement by exchange of notes signed August 6, 1936, renewing agreements of February 26 and August 7, 1935; for text, see Venezuela, *Gaceta Oficial*, August 8, 1936.

⁵ *Foreign Relations*, 1936, vol. v, p. 963.

⁶ Esteban Gil Borges.

discriminations against American commerce he hoped it would now be possible to proceed rapidly to the conclusion of such an agreement. He said that he had examined the text of various trade agreements entered into by the United States with foreign countries and was of the opinion that the general principles set forth therein formed a satisfactory basis for an agreement with Venezuela.

When I inquired as to the attitude of the Venezuelan Government with respect to the unconditional most-favored-nation clause the Minister replied that he would have no objection to the inclusion of such a clause in the case of a treaty with the United States. He urged that the provisions of the proposed agreement be made as brief and simple as possible and asked whether one of the existing trade agreements would be taken as a model or whether a special text would be drawn up for Venezuela. I shall await the Department's further instructions before proceeding with discussions.

VILLARD

611.3131/74 : Telegram

The Secretary of State to the Chargé in Venezuela (Villard)

WASHINGTON, January 16, 1937—2 p. m.

5. Your telegram No. 4, January 12, 2 p. m. You are requested to inform the Foreign Minister orally that in view of his Government's action as reported in your telegram No. 2, this Government will be pleased to discuss with the Venezuelan Government at this time the general provisions that might be embodied in a reciprocal trade agreement, it being understood that no public announcement of any character will be made for the time being. You should state further that your Government will send to you by airmail in the near future its proposals concerning general provisions, which, it is anticipated, will follow the general lines of those in trade agreements recently made by this Government.

HULL

611.3131/79

The Chargé in Venezuela (Villard) to the Secretary of State

No. 598

CARACAS, January 22, 1937.

[Received January 27.]

SIR: I have the honor to acknowledge the Department's telegram No. 5, January 16, 2 p. m. instructing me to inform the Minister for Foreign Affairs orally that in view of the Venezuelan Government's action in removing the discrimination against American commerce,

the Government of the United States would now be pleased to discuss the provisions that might be embodied in a reciprocal trade agreement.

I conveyed this message to the Minister on January 18, at the same time stating, as instructed by the Department, that I expected to receive my Government's proposals, concessions and general provisions in the near future by air mail. The Minister readily agreed to make no public announcement on the subject for the time being, because, he said, he felt sure that the French would be concerned at the proposed agreement and would seek additional concessions for their trade as soon as it became known.

At a reception in the Colombian Legation on the afternoon of the same day, while I was conversing with President López Contreras and the Foreign Minister, the latter reminded the President of the imminent possibility that a trade agreement might be negotiated between Venezuela and the United States. The President assured me that he was greatly interested in the proposal and that he believed trade between the two countries could be materially benefited and stimulated by such an agreement. The Minister of Hacienda later mentioned to me that his Department was prepared to discuss possible concessions whenever convenient to the Legation.

Respectfully yours,

HENRY S. VILLARD

611.3131/80 : Telegram

The Chargé in Venezuela (Villard) to the Secretary of State

CARACAS, January 28, 1937—4 p. m.

[Received 8:25 p. m.]

9. The Foreign Minister told me today he had been informed that a bill raising the excise tax on imported petroleum to one cent a gallon had been introduced in the United States Congress and probably would be reported favorably February 8. He said that he regarded this development as unfortunate on eve of negotiations for reciprocal trade agreement and that he was telegraphing the Venezuelan Minister in Washington to discuss matter with you as soon as possible.

While Venezuela is not seriously concerned at prospect of higher excise taxes in the United States for reasons mentioned in my telegram No. 84, December 16, noon,⁷ the Foreign Minister anticipates immediate active interest in the subject on the part of the larger oil companies. Standard Oil representative in Caracas has already inquired as to possibility of a trade agreement with Venezuela.

VILLARD

⁷ Not printed.

611.3131/79

The Secretary of State to the Chargé in Venezuela (Villard)

No. 153

WASHINGTON, February 16, 1937.

SIR: Reference is made to the Department's telegram No. 5 of January 16, 1937 and to your despatch No. 598 of January 22 in regard to the initiation of conversations with the Venezuelan Government on the subject of a reciprocal trade agreement.

The Department encloses a set of general provisions with the request that you discuss these informally with the appropriate officials of the Venezuelan Government as a basis for a trade agreement. You should, however, make it clear that these proposed general provisions are of a tentative nature and that this Government may desire to modify them at a later stage of conversations. There is now being prepared a new draft of an article on foreign exchange transactions for use in future trade agreements. When this article has been completed, the Department will send it to you as Article X of the proposed general provisions.

The remainder of this instruction is for your strictly confidential information.

Article XI of the general provisions provides for complete and unconditional most-favored-nation treatment. No exception has been made to the provisions of that Article whereby the 30 percent surtax could be levied by Venezuela on articles imported from Puerto Rico and the Virgin Islands. The Department is giving careful study to the subject of the 30 percent surtax and will instruct you further with regard thereto at a later date.

The desirability of binding Venezuelan national internal taxes on certain or all of the products which may be contained in Schedule I is likewise receiving consideration in the Department. In the event it is decided that such taxes, on one or more products contained in Schedule I, should be bound to the United States, it will be necessary to specifically provide for such binding in the trade agreement, as Article V of the general provisions, which is the only article pertaining to taxes, fees, charges or exactions imposed on imports *after* their importation, provides only for national and most-favored-nation treatment. You are requested to transmit to the Department your views and recommendations with respect to the desirability of requesting a binding of Venezuelan national internal taxes on cigarettes and on any other commodity whether or not included in the tentative Schedule I contained in the preliminary report of the country committee on Venezuela enclosed with the Department's instruction No. 150 of February 10, 1937.^a

^a This instruction merely transmitted the report and asked for comments (611.3131/83a).

You are also requested to transmit to the Department your views concerning the addition of a clause to Article IX of the enclosed general provisions which would insure equitable treatment to either party to the Agreement with respect to Government purchases of foreign products other than purchases made by a Government monopoly or licensed agency.

The Department requests that you keep it informed by telegraph concerning the progress of the conversations on the general provisions of the trade agreement.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

[Enclosure]

*Text of General Provisions of Trade Agreement as Proposed by the
Department of State*

The President of the United States of America and the President of the United States of Venezuela, desiring to strengthen the traditional bonds of friendship between the two countries by maintaining the principle of equality of treatment as the basis of commercial relations and by granting mutual and reciprocal advantages for the promotion of trade have decided to conclude a trade agreement and for that purpose have appointed their Plenipotentiaries as follows:

The President of the United States of America:

The President of the United States of Venezuela:

Who, after having exchanged their full powers, found to be in good and due form, have agreed upon the following Articles:

ARTICLE I

Articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I annexed to this Agreement and made a part thereof, shall, on their importation into the United States of Venezuela, be exempt from ordinary customs duties in excess of those set forth in the said Schedule.

The said articles shall also be exempt from all other duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed on the day of the signature of this Agreement or required to be imposed thereafter under laws of the United States of Venezuela in force on the day of the signature of this Agreement.

ARTICLE II

Articles the growth, produce or manufacture of the United States of Venezuela, enumerated and described in Schedule II annexed to this Agreement and made a part thereof, shall, on their importation

into the United States of America, be exempt from ordinary customs duties in excess of those set forth in the said Schedule. The said articles shall also be exempt from all other duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed on the day of the signature of this Agreement or required to be imposed thereafter under laws of the United States of America in force on the day of the signature of this Agreement.

ARTICLE III

The provisions of Articles I and II of this Agreement shall not prevent the Government of either country from imposing at any time on the importation of any product a charge equivalent to an internal tax imposed in respect of a like domestic product or in respect of a commodity from which the imported product has been manufactured or produced in whole or in part.

ARTICLE IV

The United States of America and the United States of Venezuela agree that the notes included in Schedules I and II, respectively, are hereby given force and effect as integral parts of this Agreement.

ARTICLE V

Articles the growth, produce or manufacture of the United States of America or the United States of Venezuela, shall, after importation into the other country, be exempt from all internal taxes, fees, charges or exactions, other or higher than those payable on like articles of national origin or any other foreign origin.

ARTICLE VI

In respect of articles the growth, produce or manufacture of the United States of America or the United States of Venezuela, enumerated and described in Schedules I and II, respectively, imported into the other country, on which ad valorem rates of duty or duties based upon or regulated in any manner by value, are or may be assessed, it is understood and agreed that the bases and methods of determining dutiable value and of converting currencies shall be no less favorable to importers than the bases and methods prescribed under laws and regulations of the United States of Venezuela and the United States of America, respectively, in force on the day of the signature of this Agreement.

ARTICLE VII

The United States of Venezuela will not impose any prohibition, import or customs quotas, import licenses or any other form of quantitative regulation, whether or not operated in connection with any

agency of centralized control, on the importation or sale of any article the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I, nor will the United States of America impose any prohibition, import or customs quotas, import licenses or any other form of quantitative regulation, whether or not operated in connection with any agency of centralized control, on the importation or sale of any article the growth, produce or manufacture of the United States of Venezuela, enumerated and described in Schedule II.

The foregoing provision shall not apply to quantitative restrictions in whatever form imposed by the United States of America or the United States of Venezuela on the importation or sale of any article the growth, produce or manufacture of the other country, in conjunction with governmental measures operating to regulate or control the production, market supply or prices of like domestic articles, or tending to increase the labor costs of production of such articles. Whenever the Government of either country proposes to establish or change any restriction authorized by this subparagraph, it shall give notice thereof in writing to the other Government 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 proposes 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.

ARTICLE VIII

1. If the Government of the United States of America or the Government of the United States of Venezuela establishes or maintains any form of quantitative restriction or control of the importation or sale of any article in which the other country has an interest, or imposes a lower import duty or charge on the importation or sale of a specified quantity of any such article than the duty or charge imposed on importations in excess of such quantity, the Government taking such action will:

(a) Give public notice of the total quantity, or any change therein, of any such article permitted to be imported or sold or permitted to be imported or sold at such lower duty or charge, during a specified period;

(b) Allot to the other country for such specified period a share of such total quantity as originally established or subsequently changed in any manner, equivalent to the proportion of the total importation of such article which such other country supplied during a previous

representative period, unless it is mutually agreed to dispense with such allotment; and

(c) Give public notice of the allotments of such quantity among the several exporting countries, and at all times, upon request, advise the Government of the other country of the quantity of any such article the growth, produce or manufacture of each exporting country, which has been imported or sold or for which licenses or permits for importation or sale have been granted.

2. Neither the United States of America nor the United States of Venezuela shall regulate the total quantity of importations into its territory or sales therein of any article in which the other country has an interest by import licenses or permits issued to individuals or organizations, unless the total quantity of such article permitted to be imported or sold during a quota period of not less than three months shall have been established, and unless the regulations covering the issuance of such licenses or permits shall have been made public before such regulations are put into force.

ARTICLE IX

In the event that the Government of the United States of America or the Government of the United States of Venezuela establishes or maintains a monopoly for the importation, production or sale of a particular commodity or grants exclusive privileges, formally or in effect, to one or more agencies to import, produce or sell a particular commodity, the Government of the country establishing or maintaining such monopoly, or granting such monopoly privileges, agrees that in respect of the foreign purchases of such monopoly or agency the commerce of the other country shall receive fair and equitable treatment. To this end it is agreed that in making its foreign purchases of any product such monopoly or agency will be influenced solely by those considerations, such as price, quality, marketability, and terms of sale, which would ordinarily be taken into account by a private commercial enterprise interested solely in purchasing such product on the most favorable terms.

ARTICLE X

(The text of this Article pertaining to foreign exchange, will be furnished later.)

ARTICLE XI

With respect to (1) customs duties or charges of any kind imposed on or in connection with importation or exportation; (2) the method of levying such duties or charges; (3) all rules and formalities in connection with importation or exportation; and (4) all laws or regulations affecting the sale 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 United States of Venezuela to any article originating in or destined for any third country, shall be accorded immediately and unconditionally to the like article originating in or destined for the United States of Venezuela or the United States of America, respectively.

ARTICLE XII

Laws, regulations of administrative authorities and decisions of administrative or judicial authorities of the United States of America or the United States of Venezuela, respectively, pertaining to the classification of articles for customs purposes or to rates of duty shall be published promptly in such a manner as to enable traders to become acquainted with them. Such laws, regulations and decisions shall be applied uniformly at all ports of the respective country, except as otherwise specifically provided in statutes of the United States of America relating to articles imported into Puerto Rico.

No administrative ruling by the United States of America or the United States of Venezuela effecting advances in rates of duties or in charges applicable under an established and uniform practice to imports originating in the territory of the other country, or imposing any new requirement with respect to such importations, shall be effective retroactively or with respect to articles either entered for or withdrawn for consumption prior to the expiration of thirty days after the date of publication of notice of such ruling in the usual official manner. The provisions of this paragraph do not apply to administrative orders imposing anti-dumping duties, or relating to regulations for the protection of human, animal, or plant life, or relating to public safety, or giving effect to judicial decisions.

ARTICLE XIII

In the event that a wide variation occurs in the rate of exchange between the currencies of the United States of America and the United States of Venezuela, the Government of either country, if it considers the variation so substantial as to prejudice the industries or commerce of the country, shall be free to propose negotiations for the modification of this Agreement or to terminate this Agreement in its entirety on thirty days' written notice.

ARTICLE XIV

There will not be imposed in the United States of America or in the United States of Venezuela, on importations of articles the growth, produce or manufacture of the other country, greater than nominal penalties because of errors in documentation, made in the country of export, provided it can be established by the importer or other party

in interest to the satisfaction of the customs authorities that the errors were clerical in origin or were made in good faith.

The Government of each country will accord sympathetic consideration to such representations as the other Government may make with respect to the operation of customs regulations, quantitative restrictions or the administration thereof, the observance of customs formalities, or the application of sanitary laws and regulations for the protection of human, animal, or plant life; and upon request it will afford adequate opportunity for consultation regarding such representations.

ARTICLE XV

1. Except as otherwise provided in paragraph 2 of this Article, the provisions of this Agreement relating to the treatment to be accorded by the United States of America or the United States of Venezuela, respectively, to the commerce of the other country, shall not apply to the Philippine Islands, the Virgin Islands, American Samoa, the Island of Guam, or to the Panama Canal Zone.

2. Subject to the reservations set forth in paragraphs 3, 4, and 5 of this Article, the most-favored-nation provisions of this Agreement shall apply to articles the growth, produce or manufacture of any territory under the sovereignty or authority of the United States of America or the United States of Venezuela, imported from or exported to any territory under the sovereignty or authority of the other country. It is understood, however, that the provisions of this paragraph do not apply to the Panama Canal Zone.

3. The advantages now accorded or which may hereafter be accorded by the United States of America or the United States of Venezuela to adjacent countries in order to facilitate frontier traffic and advantages resulting from a customs union to which either the United States of America or the United States of Venezuela may become a party shall be excepted from the operation of this Agreement.

4. 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 shall be excepted from the operation of this Agreement. 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 of the territories or possessions of the United States of America.

5. Nothing in this Agreement shall be construed to prevent the adoption of measures prohibiting or restricting the exportation or

importation of gold or silver, or to prevent the adoption of such measures as either Government may see fit with respect to the control of the export or sale for export of arms, ammunition, or implements of war, and, in exceptional circumstances, all other military supplies.

6. Subject to the requirement that, under like circumstances and conditions, there shall be no arbitrary discrimination by either country against the other country in favor of any third country, and without prejudice to the provisions of the second paragraph of Article XIV, the provisions of this Agreement shall not extend to prohibitions or restrictions (1) imposed on moral or humanitarian grounds; (2) designed to protect human, animal or plant life; (3) relating to prison-made goods; (4) relating to the enforcement of police or revenue laws; (5) directed against misbranding, adulteration, and other fraudulent practices, such as are provided for in the pure food and drug laws of either country; and (6) directed against unfair practices in import trade.

ARTICLE XVI

In the event that the United States of America or the United States of Venezuela adopts any measure 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 of the country which has adopted any such measure shall consider such representations and proposals as the Government of the other country may make with a view to effecting a mutually satisfactory adjustment of the matter.

ARTICLE XVII

The present Agreement shall come into force on the thirtieth day following proclamation thereof by the President of the United States of America and the President of the United States of Venezuela, or should the proclamations be issued on different days, on the thirtieth day following the date of the later in time of such proclamations, and shall remain in force for the term of three years thereafter, unless terminated pursuant to the provisions of Article VII, X, or XIII. The Government of each country shall notify the Government of the other country of the date of its proclamation.

Unless at least six months before the expiration of the aforesaid term of three years the Government of either country shall have given to the other Government notice of intention to terminate this Agreement upon the expiration of the aforesaid term, the Agreement shall remain in force thereafter, subject to termination under the provisions of Article VII, X, or XIII, until six months from such time as the Government of either country shall have given notice to the other Government.

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

Done in duplicate, in the English and Spanish languages, both authentic, at the city of Caracas, this day of, nineteen hundred and thirty-seven.

For the President of the United States of America :

(SEAL)

For the President of the United States of Venezuela :

(SEAL)

611.3131/91

The Chargé in Venezuela (Villard) to the Secretary of State

No. 646

CARACAS, February 26, 1937.

[Received March 2.]

SIR: I have the honor to refer to the Department's instruction No. 153 of February 16, 1937 enclosing a set of general provisions to be discussed with the appropriate officials of the Venezuelan Government as a basis for a trade agreement. As reported in my telegram No. 16 of February 23, 6 p. m.⁹ conversations on the subject were initiated in the Foreign Office on that day, at which time I made it clear that the proposed general provisions were of a tentative nature and that my Government might desire to modify them at a later stage of the discussions.

My telegram No. 18 of February 25, 3 p. m.⁹ reported that the Foreign Minister had told me that the general provisions would be taken up at a cabinet meeting on March 5 and that he had expressed a strong hope that negotiations on Schedules I and II might commence at an early date. Dr. Gil Borges stated that he was anxious to proceed as rapidly as possible with the discussions and that he was circularizing members of the new cabinet with copies of the general provisions in order that they might be in a position to express their views on the subject at the meeting on March 5. He also proposed to have a study made of the provisions by the Counselor of the Foreign Office, Dr. Juan José Mendoza, and to go over the matter within the next few days with the new Minister of Hacienda, Dr. Cristóbal Mendoza. The two Dr. Mendozas are brothers, and both are personal friends of Dr. Gil Borges.

I told the Foreign Minister that so far no public announcement had been made in the United States of the proposed agreement and that I did not know whether tentative schedules were available for trans-

⁹ Not printed.

mission to his Government as yet. Nevertheless, he said he hoped that some indication of the schedules could soon be drawn up, in order that conversations on them and on the general provisions might proceed simultaneously. I may observe confidentially in this connection that if the schedules can be introduced before the new Minister of Hacienda is influenced by certain extreme nationalist elements in his department, the prospects for success will be greatly enhanced.

In response to the Department's request for an expression of my views as to the desirability of requesting a binding of Venezuelan national internal taxes on cigarettes, I believe that such a request might well be included in the trade agreement negotiations. When the present high internal revenue tax on cigarettes was adopted by the Venezuelan Government, the Legation was given to understand that the customs import duties on American cigarettes might later be reduced "for justifiable reasons," thus bringing the total cost of such products down to the previous level. While the Venezuelan Government would no doubt consider cigarettes to be one of the products on which duty reductions might be granted in the event of a trade agreement with the United States, there is nothing to prevent a subsequent further increase in the internal revenue tax which would render negative the advantages derived in a trade agreement. As the financial policies of the Ministry of Hacienda are subject to change without notice, a binding of the present internal tax would appear desirable if such can be obtained without undue administrative difficulty in Venezuela.

I also believe it would be desirable to add to Article IX a clause as suggested by the Department which would insure equitable treatment to either party with respect to Government purchases of foreign products other than purchases made by a Government monopoly or licensed agency. Most of the official purchases made by Venezuela are undertaken directly by the Government rather than by a Government monopoly or agency. I do not think there would be any difficulty in obtaining agreement to the insertion or addition of such a clause.

In connection with the question of petroleum, representatives of the Standard Oil of New Jersey have approached me for the second time with an inquiry as to the prospects for a trade agreement with Venezuela. Major Thomas Armstrong of the New York office called today with Mr. Robert Wells, recently assigned to work in Venezuela, and stated that his company was naturally perturbed at the proposal in the United States Congress to double the excise taxes on petroleum or petroleum products. He said that the independent oil companies appeared to have strong support in their backing of this measure, while for political reasons it would be "hopeless" for the Standard Oil or other large interests to plead against it.

Major Armstrong added that he proposed to point out to the Foreign Minister the danger to Venezuela in any proposal of this kind, and to urge that the matter of petroleum be given foremost consideration in case negotiations took place for a trade agreement. He said that he was going to inform the Foreign Minister that in case the excise taxes were raised in the United States his company would have to curtail production and cease shipping its products as formerly to American ports.

Respectfully yours,

HENRY S. VILLARD

611.3131/88 : Telegram

The Secretary of State to the Chargé in Venezuela (Villard)

WASHINGTON, March 4, 1937—6 p. m.

12. Your No. 18, February 25, 3 p. m.¹¹ Please inform Foreign Minister before Cabinet meeting March 5, that the draft of the proposed article on foreign exchange is still being considered in the Department and that it will be mailed to you in the near future. You should add that this article will be designed to safeguard the other general provisions of the agreement and the duty concessions from impairment through the operation of an exchange control system.

You should seek to reach an *ad referendum* agreement on the general provisions already proposed, and on the exchange article to be proposed shortly, as soon as possible.

You may inform the Venezuelan Government that if agreement is reached on the principles embodied in the general provisions already submitted, and on the principle of the proposed exchange provision, prior to April 1, this Government is prepared to announce publicly on that date that it contemplates negotiating a trade agreement with Venezuela.

The Department anticipates instructing you to proceed with discussion of the schedules as soon as it learns that substantial agreement has been reached with reference to the general provisions and you may so inform the Venezuelan Government.

HULL

611.3131/93 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, March 23, 1937—5 p. m.

[Received 7:50 p. m.]

23. Department's telegram No. 12, March 4, 6 p. m. Foreign Minister states that owing to absence of President and other officials

¹¹ Not printed.

during Easter holidays it will not be possible to reach an *ad referendum* agreement prior to April 15. While he considers that negotiations have in fact begun, he is unwilling to give assurances that substantial agreement has been reached with reference to the general provisions until he has further consulted the Ministers of Fomento, Hacienda, Agriculture, and the Caracas Chamber of Commerce.

The Minister added that while the Venezuelan Government would have some proposals to make on the wording of the general provisions he did not anticipate that the suggested changes would handicap the negotiations. He felt, however, that the unconditional most-favored-nation clause and the proposed article on foreign exchange would require special consideration. If the Venezuelan authorities undertake a detailed study of these subjects, the results thereof in the Legation's opinion may not be known for some time.

It seems possible that the Foreign Minister does not fully understand the implications of an *ad referendum* agreement. Can the Department furnish an explicit statement of its interpretation of this phrase?

NICHOLSON

611.3131/93 : Telegram

The Secretary of State to the Minister in Venezuela (Nicholson)

WASHINGTON, March 26, 1937—6 p. m.

16. Your telegram No. 23, March 23, 5:00 p. m. Inform the Foreign Minister that until this Government is prepared to issue public announcement of intention to negotiate, all conversations concerning the general provisions are considered strictly confidential and that, therefore, it would be appreciated if special precautions are taken by the Venezuelan authorities to insure that any discussions of the general provisions with the Caracas Chamber of Commerce or with any other agency outside the Venezuelan Government will not be given any publicity.

You may inform the Foreign Minister, if the need arises, that by "*ad referendum*" the Department meant merely that any agreement reached by the Legation and the Venezuelan authorities with regard to the general provisions is subject to approval by the Department.

In view of your conversation with the Foreign Minister reported in your telegram No. 4 of January 12, 1937, the Department would appreciate any information which the Legation may have as to the reason for the hesitation on the part of the Venezuelan authorities in regard to the unconditional most-favored-nation principle.

Please keep the Department currently informed by telegraph with respect to the progress of conversations.

HULL

611.3131/95 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, March 29, 1937—8 p. m.

[Received 8:36 p. m.]

26. Department's 16, March 26, 6 p. m. Foreign Minister has agreed to postpone consultations with Chamber of Commerce until the Department has issued public announcement of intention to negotiate trade agreement. He states that he regards all conversations concerning the general provisions as strictly confidential.

With respect to the hesitation on the part of the Venezuelan authorities in regard to the unconditional most-favored-nation principle it is the Legation's impression that this is due to an unwillingness to enter into any such commitment with nations imposing quotas or other restrictions on Venezuelan goods. In this connection, it is believed that the authorities have particularly in mind such countries as Italy, France, and Germany which feel free to demand favors from Venezuela but which at the same time make difficulties in the importation of Venezuelan products.

While this has apparently created an antagonistic attitude toward most-favored-nation treaties, the Foreign Minister upon specific questioning has now affirmed that in the case of the United States there would be no objection to embodying the unconditional clause in a trade agreement.

Venezuelan authorities are making progress in their study of the general provisions but are handicapped by the lack of technical staff. The Foreign Minister feels that the language is complicated and difficult to understand and that the terms cannot be considered as a whole until the article on exchange control is received.

NICHOLSON

611.3131/96 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, April 8, 1937—6 p. m.

[Received 9:20 p. m.]

27. My No. 26, March 29, 8 p. m. Foreign Office has raised objection to Articles 7, 8 and 9 of proposed trade agreement on the ground that language is too technical and difficult to reconcile with the experience,

practice, or policy of Venezuela. After consultation with other interested departments it will submit an alternate draft of these three articles embodying the same principles but briefer and less technically worded.

The Foreign Minister states that he would be glad to have the Department now make public announcement of its intention to negotiate but that he is unable to conclude an *ad referendum* agreement on the general provisions or to assert that substantial agreement has been reached on the principles thereof until negotiations have actually taken place. While he believes personally that the provisions are in general acceptable, he maintains that in stating so officially he would be committing himself to formulas and principles which it might be desirable to modify during the course of negotiations, besides binding his Government to an agreement which must be submitted to Congress for ratification. He hopes that public announcement may be made simultaneously in Washington and Caracas at an early date after which he feels that he may appropriately consult the President and that rapid progress can be made in the conversations.

The Foreign Minister in a note dated April 6 and again orally today expressed the hope that the exchange control article as well as the tentative schedules will soon be available. He states that until the former is received he cannot proceed with his discussions of the agreement with other Cabinet Ministers.

NICHOLSON

611.3131/96: Telegram

The Secretary of State to the Minister in Venezuela (Nicholson)

WASHINGTON, April 14, 1937—6 p. m.

17. Your No. 27, April 8, 1937. The Department does not take the position that agreement must be reached with respect to the text of the draft general provisions now under consideration by the Venezuelan Government; it is sufficient, prior to the announcement that a trade agreement with Venezuela is contemplated, that the Venezuelan Government agree to the broad principles underlying such provisions. You are requested to make this clear to the Venezuelan Foreign Minister and to inform him that the Department desires the Venezuelan Government's agreement to such principles as the basis upon which negotiations will take place, subject, of course, to such ratification by the Venezuelan Congress as may be necessary.

From your telegram No. 26 of March 29, it appears that the Venezuelan Government will agree to the unconditional most-favored-nation principle as regards the United States; the first paragraph of

your telegram No. 27, would seem to indicate that while there is not agreement on the part of the Venezuelan Government as to the language of Articles 7, 8 and 9, there is agreement as to the principles embodied in those Articles. You are requested to inform the Foreign Minister that when the Venezuelan Government has confirmed its agreement with respect to the indicated principles, and signifies its agreement to the other principles embodied in the general provisions, such as that underlying the Article on exchange control, which is being sent to you, the Department will be disposed to arrange a date shortly thereafter for the issuance here, and also in Caracas if the Venezuelan Government desires, of a public announcement that a trade agreement is contemplated. You should inform the Foreign Minister that, in accordance with established procedure, this announcement will include the statement that at a later date a second public announcement will be made here of the articles under consideration as subjects for concessions to be granted to Venezuela. This second announcement will constitute a formal invitation to our domestic interests to submit briefs with respect to the listed articles and will set a date for public hearings before the Committee for Reciprocity Information as required by the Trade Agreements Act. You should ascertain whether the Venezuelan Government has any objection to this procedure. In this connection you may point out to the Foreign Minister, if you deem it advisable, that the foregoing involve only our own procedure here and that it does not involve our making public announcement, prior to conclusion of the agreement, of the products on which we shall seek concessions from Venezuela.

Please inform the Department by telegram of the result of any conversations with the Foreign Minister in regard to the matters set forth herein.

HULL

611.3131/97a

The Secretary of State to the Minister in Venezuela (Nicholson)

No. 171

WASHINGTON, April 14, 1937.

SIR: Reference is made to the Department's instruction of February 16, 1937, in regard to the general provisions which it is proposed to include in a trade agreement with Venezuela.

The provision on exchange control has now been completed and the text of this provision is enclosed herewith as Article X of the general provisions.

The intention of this article is to ensure the availability of exchange for all future imports of American products at the most favorable

rate which is in effect with respect to any current commercial transactions. It does not, however, mean that exchange control must be abolished, but merely that exchange must be made available to pay for all permitted imports of American products. If there is a shortage of exchange for this purpose, Venezuela may limit importation of American products, provided that such limitations do not violate the other provisions of the agreement.

The theory underlying the new provision on exchange control is that, unless we are assured that exchange will become available at the most favorable rate for all imports of American goods, there can be no assurance that the concessions which may be granted by Venezuela with respect to tariff duties, quantitative restrictions, et cetera, will not be rendered ineffective through exchange control. Hence, if Venezuelan officials should claim that they cannot accept this article, you should ask them what form of assurance they would be prepared to give to the effect that the other provisions in an agreement would not be rendered ineffective through exchange control.

The result of the inclusion of the new provision on exchange control in a trade agreement would be that if Venezuela should find it necessary, in order to protect the value of its currency, to restrict payments for imports from the United States, such restrictions would have to be effected through the restriction of importations, and such restrictions would have to conform to the provisions contained in Articles VII and VIII. If, however, Venezuela should suffer from a serious shortage of exchange, the Venezuelan Government might find that the provisions of Article VII, as transmitted to you on February 16, do not allow sufficient freedom of action to impose the necessary restrictions.

Hence it has been decided to modify Article VII in order to provide greater flexibility. The text of that article is accordingly amended in the manner indicated below.

At the end of the first sentence of the second paragraph, delete the period following the word "articles" and insert a comma, followed by:

"or imposed in order to maintain the exchange value of the currency of the country."

This amendment to Article VII would permit Venezuela to impose quantitative restrictions on articles named in Schedule I if this were necessary to protect the value of its currency. It would, however, be necessary for Venezuela to give notice of such restrictions thirty days in advance of their imposition and to satisfy this Government of their necessity for the purpose envisaged. It must of

course be understood that the provisions of Article VIII would apply to such restrictions.

Your attention is drawn to a typographical error in the general provisions as sent to you on February 16. In Article VII, second paragraph, eleventh line, the word "subparagraph" should read "paragraph."

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

[Enclosure]

Draft of Article X of General Provisions on Exchange Control

In the event that the Government of the United States of America or the Government of the United States of Venezuela establishes or maintains, directly or indirectly, any form of control of the means of international payment, it shall, in the administration of such control:

(a) Impose no prohibition, restriction, nor delay on the transfer of payment for imports of articles the growth, produce, or manufacture of the other country, or of payments necessary for and incidental to the importation of such articles;

(b) With respect to rates of exchange, taxes or surcharges on exchange transactions in connection with payments for or payments necessary and incidental to the importation of articles the growth, produce, or manufacture of the other country, accord unconditionally treatment no less favorable than that accorded in connection with the importation of any article the growth, produce, or manufacture of any third country; and

(c) With respect to all rules and formalities applying to exchange transactions in connection with payments for or payments necessary and incidental to the importation of articles the growth, produce, or manufacture of the other country, accord unconditionally treatment no less favorable than is accorded in connection with the importation of the like article the growth, produce, or manufacture of any third country.

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 to such representations, the Government making them may, within fifteen days after the expiration of the aforesaid period of thirty days, terminate this Agreement on thirty days' written notice.

611.3131/98 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, April 15, 1937—6 p. m.

[Received 8:20 p. m.]

31. Department's 17, April 14, 6 p. m. The Foreign Minister fully realizes that no agreement is sought with respect to the text of the draft general provisions prior to the announcement of intention to negotiate and that the Venezuelan Government is being asked at the time only to agree to the broad principles underlying such provisions. However, for the reasons set forth in the second paragraph of my telegram No. 27, April 8, 6 p. m. the Minister is unwilling to commit his Government officially to an agreement upon these principles until further conversations have revealed whether modifications or changes in such principles might not be desirable.

In discussing the contents of the Department's telegram under reference this morning the Minister repeated his previous declarations on the subject and stated that if the Department desired the Venezuelan Government's agreement to the underlying principles prior to the initiation of formal negotiations, it would appear necessary for him first to consult other interested Government agencies and obtain their approval of such principles. He explained that he would have to proceed slowly and carefully in this matter until he could present to the Cabinet a formal request for authorization to proceed with negotiations on the basis of the principles in question. As soon as Cabinet approval was forthcoming he would feel free to signify his Government's agreement to the principles underlying the draft provisions.

The Minister again mentioned what he termed the prolixity of the general provisions and the difficulty of obtaining a proper understanding thereof in the Spanish language. He added that in view of the delicacy of the exchange question in Venezuela as in the rest of the world the expected article on exchange control would probably require special study before agreement could be signified on the principles embodied therein.

No objection was perceived by the Minister to the procedure outlined by the Department with respect to the public announcement of articles to be considered as subjects for concessions.

NICHOLSON

611.3131/98 : Telegram

The Secretary of State to the Minister in Venezuela (Nicholson)

WASHINGTON, April 21, 1937—5 p. m.

20. Your No. 31, April 15, 1937. Please call on the Foreign Minister at his earliest convenience and inform him that this Government

would like to proceed as rapidly as possible with the negotiation of a trade agreement, and is prepared to issue the preliminary public announcement just as soon as he, speaking for his Government, can give the assurance requested with regard to the basis upon which negotiations will take place. You may say to the Minister that this Government is sure he will appreciate that it would serve no useful purpose to proceed with the negotiations unless the two Governments are in agreement in advance that the proposed general provisions will be based upon the unconditional most-favored-nation principle as applied to customs duties, exchange matters, quotas, et cetera. You may assure him that if his Government is disposed to agree to this principle as the primary basis of the general provisions, the precise language of the general provisions that will embody this principle can be discussed during the formal negotiations.

The Department will instruct you fully by air mail as to the procedural steps to be taken if and when agreement is reached on the basis for negotiations.

HULL

611.3131/99 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, April 23, 1937—noon.

[Received 3 : 52 p. m.]

34. Department's telegram No. 20, April 21, 5 p. m. In an interview yesterday the Foreign Minister stated that a preliminary study of the exchange control article caused him to fear that provisions as now worded would prejudice the entire agreement. He said that while this opinion remained to be confirmed by other interested government departments, he felt sure that Venezuela could give no assurance that exchange would be made available for all imports of American goods because the country is dependent for its supply of foreign exchange upon the daily sales of drafts by the oil companies. In view of the unpredictable fluctuations in the available amount thereof he said the Venezuelan Government was averse to entering into any undertaking with respect to exchange transactions and in the event of an exchange control probably would be disinclined to impose any such measure as a quantitative limitation on the importation of American goods for the purpose of protecting the value of its currency.

When asked what form of assurance he might consider giving to the effect that the other provisions of the proposed agreement would not be rendered ineffective through the operation of an exchange control, the Minister said that the matter was predicated upon a condition which did not exist and which was contrary to

Venezuela's experience, or, he said, that Venezuela was one of the few countries in the world which did not impose quotas, license systems, or other trade barriers and that since the proposed general provisions seemed to deal chiefly with these subjects he felt the negotiations were being needlessly compulsory.

The Minister then volunteered to submit a tentative alternate draft of a trade agreement embodying the views of the Venezuelan Government in short and concise form. Although it was made clear to him that the reciprocal trade agreements negotiated by the United States are generally standardized as to form, the Minister said that he thought it would be unwise to proceed with negotiations until he had had an opportunity to draw up such a draft and to conduct an exchange of views thereon.

In reply to my representations on the contents of the Department's telegram No. 20 accompanied by an *aide-mémoire* for greater clarity, the Foreign Minister said that the most-favored-nation principle was already being extended to the United States in accordance with the Legation's request last December, the results of which were reported in despatch 579 of January 12, 1937.¹² While expressing his approval of the principle, he was obviously unwilling to enter into any official commitment that it would constitute the basis for negotiations until he had drawn up the alternate draft referred to.

While the Venezuelan Government has previously stressed its desire to negotiate a trade agreement I believe that its examination of the proposed general provisions has at this particular time a fundamental difference in the viewpoints of the two governments as to the form such an agreement shall take. Owing partly to its lack of technical experience and to its policy of confining the provisions of commercial agreements to the simplest terms, I doubt whether the Venezuelan authorities can be prevailed upon to accept any provisions such as those embodied in the exchange control article.

NICHOLSON

611.3131/99 : Telegram

The Secretary of State to the Minister in Venezuela (Nicholson)

WASHINGTON, April 28, 1937—4 p. m.

25. Your telegram No. 34, April 23, noon. Please call upon the Foreign Minister and state that this Government will be pleased to give careful consideration to any draft of the general provisions which he might wish to submit, but that it is hoped that the preparation and presentation of such a draft will be expedited.

¹² Not printed.

Kindly attempt to obtain from the Foreign Minister an expression as to when it may be expected that his draft of the general provisions will be submitted to you and report by telegraph.

HULL

611.3131/104 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, May 21, 1937—6 p. m.

[Received 9:25 p. m.]

64. Your No. 33, May 20, 7 p. m.¹³ In a protracted discussion yesterday the Foreign Minister raised so many objections to the substance of the reciprocal trade agreement as presented by the Department that I now doubt seriously whether such an agreement can be negotiated with Venezuela. I do not believe that he has any clear idea as yet as to the form he would like the agreement to take and he admitted that he had not made much progress in working out an alternate draft or list of comments in regard to the proposed general provisions.

The Foreign Minister stated that there were two main problems which concerned Venezuela, namely, petroleum and the question of foreign exchange. He pointed out that the recent substantial appreciation in the exchange rate of the bolivar relative to the dollar had made it much easier for American exporters to sell goods to Venezuela and I gathered that he was therefore disinclined to contemplate material reductions in import duties at this time. He said that he was still carrying on conversations with the Minister of Hacienda on the subject but it is my impression that as long as Venezuela's financial policy remains in its present undefined state it will be impossible to include any reference to foreign exchange in a trade agreement.

The Minister also referred to the 30% surtax on importations from the Colonial Antilles which he said could not be abolished and which raised the problem of Puerto Rico and the Virgin Islands. He furthermore qualified his recent assurances with regard to the unconditional most-favored-nation clause by stating that the United States had been formally granted the preferential treatment following the Legation's representations last December and that it would be unnecessary to embody any reference thereto in a trade agreement. His additional statement that Venezuela could not afford to have other countries claim similar treatment under existing covenants leads me to believe that he has so far reversed his position as to be unwilling

¹³ This telegram requested information as to comments of the Minister for Foreign Affairs regarding the general provisions (611.3131/101).

to mention unconditional most-favored-nation treatment in any agreement with the United States.

With respect to tariff reductions, the Minister stated that he could perceive no material favors which the United States could grant to the commerce of Venezuela and he displayed considerable coolness to the idea of schedules annexed to a trade agreement granting specific reductions on a long list of commodities unilaterally presented by the United States. When asked frankly whether his friends would be interested in some concession on petroleum he replied in the negative stating that Venezuelan exports of petroleum went principally to the Netherlands West Indies and that what happened to them subsequently concerned the producing companies and not the Venezuelan Government. All these differences he said were difficult to reconcile [apparent omission] form to be embodied in a trade agreement especially as he wished such an agreement to conform to a general revision of Venezuela's commercial treaties which is now under contemplation.

It was suggested to the Foreign Minister that if the reciprocal agreement proposed by the Department was unacceptable to his Government it might now be advisable to make a candid statement to that effect but he declined to do so until he had studied the possibilities of an alternate draft. From our conversations on the subject I am inclined to think that his views as to the latter envisage merely a brief instrument of two or three articles in the form of a *modus vivendi* or exchange of notes "regulating the commercial relations between the two countries" possibly on the lines of the agreement concluded with France last August. He still promises to submit an alternate draft at the Embassy.

It is discouraging to realize from the foregoing that ever since the draft general provisions were presented the eagerness of the Venezuelan Government to conclude a trade agreement with the United States has steadily diminished. Although the Foreign Minister has been fully aware of the scope and form of the reciprocal agreements previously negotiated by the United States, actual examination of the proposed provisions particularly the article on foreign exchange coupled with recent developments in relation to the oil companies and the exchange rate of the bolivar has apparently brought about a complete change in attitude. Difficulties of the situation are enhanced by the lack of familiarity with the subject on the part of new Cabinet ministers and by the fact that the conduct of negotiations rests solely with the overburdened Foreign Minister. The latter appreciated the position of the Legation in this matter and is instructing the Venezuelan Minister in Washington to explain the situation to the De-

partment. I would suggest that the Department go into the subject fully with Doctor Escalante.

NICHOLSON

611.3131/104

The Secretary of State to the Minister in Venezuela (Nicholson)

No. 184

WASHINGTON, June 11, 1937.

SIR: With reference to your telegram No. 64 of May 21 last, reporting a discussion on the day previous between you and the Minister of Foreign Affairs in regard to a possible reciprocal trade agreement, you are requested, unless you perceive objection, to present to the Minister a memorandum incorporating the substance of the enclosed draft.

You may also state orally to the Minister of Foreign Affairs that the preliminary studies by this Government with respect to a possible trade agreement between the United States and Venezuela indicate the possibility, subject of course to developments following public announcement and the presentation of views by private interests in this country, of tariff and import tax reductions on the part of the United States affecting, on the basis of 1935 figures, approximately 67 percent of Venezuela's total direct exports to the United States, in addition to bindings of present tariff treatment on about 22 percent of Venezuela's direct exports to the United States. You may add that although the possible concessions to Venezuela, on the basis of these tentative studies would thus cover about 89 percent of Venezuela's direct export trade with the United States, these studies indicate on the other side that the tentative requests to be made by the United States for tariff reductions on the part of Venezuela would affect about 29 percent of American exports to Venezuela, that requests for binding of present tariff treatment would cover about 12 percent of United States exports, and that together these requests would amount to only about 41 percent or 42 percent of the total United States exports to Venezuela.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

[Enclosure]

*Draft of a Memorandum To Be Presented to the Venezuelan
Minister for Foreign Affairs*

The American Legation, on instruction of its Government, refers to a conversation between His Excellency the Minister for Foreign

Affairs and the American Minister on May 20, 1937,¹⁴ with respect to possible negotiations for a trade agreement between the United States and the United States of Venezuela. In the course of this conversation His Excellency the Minister for Foreign Affairs expressed the hesitation of his Government in accepting the unconditional most-favored-nation principle as applied to foreign exchange, and indicated doubt as to the value to his country of concessions which the United States might be able to grant in exchange for tariff concessions by the United States of Venezuela.

In view of previous representations made by the Venezuelan Government over a period of many months indicating that it was desirous of negotiating with the United States a reciprocal trade agreement of the kind which the United States had concluded in recent months with a number of other countries, the Government of the United States has been somewhat perplexed in being informed of what appears to be a change in attitude of the Venezuelan Government in the matter. In this connection the Government of the United States recalls that it had been pleased to learn that on January 12, 1937, His Excellency the Minister for Foreign Affairs informed the American Chargé d'Affaires ad interim that he had examined the texts of various trade agreements recently concluded by the United States and was of the opinion that the general provisions thereof formed a satisfactory basis for a trade agreement with Venezuela. It was with satisfaction also that the Government of the United States had been informed that His Excellency the Minister for Foreign Affairs had in previous discussions indicated the willingness of his Government to subscribe to the unconditional most-favored-nation principle in a trade agreement with the United States. With respect to foreign exchange, assurances given in any trade agreement in regard to the unconditional most-favored-nation principle as applied to import tariffs would, of course, have little significance unless assurances could also be obtained with respect to foreign exchange, for obviously discrimination in the matter of exchange could render meaningless assurances of most-favored-nation treatment in tariff matters.

The Government of the United States assumes that if the Government of Venezuela should desire to proceed with the negotiations for a trade agreement, one of the primary objectives of both Governments would necessarily be to give the fullest practicable application to the most-favored-nation principle as applied to the treatment to be accorded by each country to the commerce of the other. It is not considered essential before initiating negotiations to reach an agreement on precise texts for the general provisions, as it is felt that the provisions for carrying into effect the objective aforementioned are

¹⁴ See telegram No. 64, May 21, 6 p. m., from the Minister in Venezuela, p. 769.

capable of sufficient variation to permit a mutually satisfactory agreement being attained without serious difficulty.

As the Venezuelan Government is aware, the United States, through its trade agreement program, has been endeavoring to contribute its share to the restoration of world commerce by reducing trade restrictions and by furthering the principle of equality of trade opportunity. Sixteen of these reciprocal trade agreements have already been concluded in the last three years, and the Government of the United States is now negotiating and exploring the possibilities of concluding additional agreements. It is recalled with deep appreciation and gratification that this program has had the support of His Excellency, Doctor Gil Borges, who has on several occasions expressed himself in favor of liberal trade policies. In view of the cordial commercial relations existing between the United States of America and the United States of Venezuela, and in view also of the endorsement given by the Venezuelan Government to the principle of equality of treatment of international trade at both the Montevideo conference in 1933¹⁵ and the recent conference at Buenos Aires,¹⁶ the Government of the United States has felt hopeful that the Venezuelan Government would cooperate with it in the pursuance of this liberal trade program. This hope has been strengthened by the representations made from time to time showing the desire of the Venezuelan Government to negotiate with the United States a trade agreement of the character mentioned.

The Government of the United States would deeply appreciate being informed whether it is now the wish of the Venezuelan Government to continue the conversations looking towards an agreement on the broad basis of equality of treatment of the kind which this Government has negotiated with various countries in the recent past and is now negotiating with other countries.

611.3131/108

The Minister in Venezuela (Nicholson) to the Secretary of State

[Extracts]

No. 743

CARACAS, June 15, 1937.

[Received June 19.]

SIR: Referring to my telegram No. 68 of June 14, 7 p. m.,¹⁷ I have the honor to transmit the text, together with a translation thereof,

¹⁵ Resolution V: Economic, Commercial, and Tariff Policy. 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* (Washington, Government Printing Office, 1934), p. 196.

¹⁶ Resolution XLIV: Equality of Treatment in International Trade. 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), p. 240.

¹⁷ Not printed.

of the alternate draft ^{17a} of a reciprocal trade agreement as proposed by the Venezuelan Minister for Foreign Affairs. There is also transmitted herewith a copy and a translation of an accompanying memorandum which the Minister handed me at the time of presenting the draft trade agreement.

As the Department will observe the Foreign Minister's draft is considerably shorter than that proposed by the Department, consisting of thirteen articles instead of the Department's eighteen. In general, however, it follows the lines of the Department's draft and is more comprehensive as to its provisions than I had been led to expect by the recent remarks of the Foreign Minister which were reported in my detailed telegram No. 64 of May 21, 6 p. m. In my opinion, while it does not meet the Department's position with respect to certain matters such as exchange control and unconditional most favored nation treatment, it affords sufficient basis for further discussions.

Pending the Department's study of the alternate draft and its instructions relative thereto, I shall not attempt formally to discuss the subject with the Venezuelan authorities.

Respectfully yours,

MEREDITH NICHOLSON

[Enclosure—Translation]

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

MEMORANDUM

The general structure of the Agreement has not been changed with respect to the text presented by the Legation of the United States of America; it has only been adapted to the peculiar circumstances of Venezuelan economy.

The essential points of view of the United States have been preserved in the new text of the Ministry for Foreign Affairs.

In general, an effort has been made to substitute, without failing to provide for, situations such as those involving quantitative restrictions or controls over exports, etc., with a more simple and general formula than that which is contained in the draft presented by the Legation.

Therefore, one of the principal modifications consists in that Articles VII, VIII and IX are condensed in the text of the Ministry for Foreign Affairs into Article V.

Article X concerning exchange was suppressed, because in its general sense it is included in the most favored nation clause, because it

^{17a} Not printed.

provides for situations which would hardly present themselves in Venezuela.

Article XI of the text presented by the Legation contains the most favored nation clause. In the text of the Ministry for Foreign Affairs it is contained in Article VI.

In the paragraphs of this article are set forth the exceptions contained in Article XV of the American text; and moreover, (in No. 3 of paragraph 2), the exception regarding situations created by Trade Agreements by virtue of which one of the Contracting Parties obtains from the other State advantages through equivalent concessions.

Article XI of the Venezuelan text provides that the Agreement shall not apply to certain possessions and territories under American control, among which are the Virgin Islands and Puerto Rico. Thereby the Ministry for Foreign Affairs desires to save that provision of the Customs Tariff Law, Article 3, by virtue of which articles proceeding from the Antilles and the Guianas are surcharged an additional 30%. This provision is untouchable in the general opinion of Venezuelans, because it constitutes a safeguard for the import commerce of the country and the preservation of a great part of its trade with Europe and the United States.

The other modifications are not of substance but of form and arrangement.

CARACAS, June 14, 1937.

611.3131/109

The Minister in Venezuela (Nicholson) to the Secretary of State

No. 747

CARACAS, June 18, 1937.

[Received June 22.]

SIR: I have the honor to refer to the Department's instruction No. 184 of June 11, 1937, transmitting a draft memorandum to be presented to the Minister for Foreign Affairs on the subject of a possible reciprocal trade agreement, and to the Department's telegram No. 37 of June 16, 4 p. m.,¹⁸ instructing me to report by telegraph as soon as the memorandum had been presented. For reasons which appeared to me to be obvious, I despatched my telegram No. 69 of June 17, 10 a. m.,¹⁸ stating that I believed it would be inexpedient to present the memorandum until the Department had had an opportunity to consider the contents of my telegram No. 68 of June 14, 7 p. m.,¹⁸ and my despatch No. 743 of June 15 transmitting the Foreign Minister's alternate draft of a trade agreement and his accompanying comments.

The Legation has studied with interest the Department's comments in the body of instruction No. 184 of June 11 relative to the possibility

¹⁸ Not printed.

of tariff and import tax reductions on the part of the United States affecting, on the basis of 1935 figures, approximately 67 percent of Venezuela's total direct imports to the United States. While the Legation has not yet received from the Department any figures on this subject other than those contained in the First Report of the Country Committee on Venezuela, and while it cannot, therefore, make any categorical statements on the matter, it may be observed that the 67 percent of Venezuela's taxable direct exports referred to would appear, on the basis of available figures, to apply almost exclusively to shipments of crude petroleum. If this is the case, such shipments may be narrowed down for practical purposes to those made by the Mene Grande Oil Company (formerly the Venezuelan Gulf Oil Company), since the two other producing companies in Venezuela, the Royal Dutch Shell and the Standard of New Jersey, send the bulk of their production to the Netherlands West Indies of Curacao and Aruba, respectively, for refining and transshipment.

Assuming that the above reasoning is correct, I would hesitate to bring this matter to the attention of the Foreign Minister at present as an inducement for Venezuela to enter into a trade agreement with the United States, because he has stated to me, as reported in my telegram No. 68 of June 14 [*No. 64 of May 21, 6 p. m.*],^{18a} that he was not interested in a possible concession in respect to oil. The attitude of the Venezuelan Government in this regard, after considerable study, now seems to be that what happens to shipments of petroleum after they leave Venezuelan shores is a matter which concerns the oil companies and not the Venezuelan Government. Efforts of the latter, as I have reported before, are now directed toward a policy of having refineries established in this country.

I assume that the above mentioned 67 percent of Venezuela's total direct exports to the United States is based on valuation rather than weight and in this connection I may venture a further remark.

The only document definitely known to accompany oil shipments to the United States from Venezuela is the ship's manifest, and if total exports are computed on the basis of that document they represent an arbitrary value fixed by the Venezuelan Collector of Customs. It is understood that this arbitrary valuation is approximately twice the actual value of the oil, so that unless otherwise corrected a considerable inaccuracy would creep into the figures for Venezuela's direct oil exports to the United States. Until further information on this subject is made available to the Legation, I shall not attempt to discuss the question with the Foreign Minister.

Respectfully yours,

MEREDITH NICHOLSON

^{18a} Corrected on basis of despatch dated June 21, from the Minister in Venezuela.

611.3131/108

The Secretary of State to the Minister in Venezuela (Nicholson)

No. 192

WASHINGTON, July 14, 1937.

SIR: Reference is made to your despatch No. 743 of June 15, 1937, transmitting a copy with translation of an alternative draft, dated June 1937, of general provisions of a reciprocal trade agreement as proposed by the Venezuelan Minister for Foreign Affairs.

You are requested to present to the Minister a note incorporating the substance of the enclosed draft, and at the same time to convey to him orally the substance of the second paragraph of the Department's instruction No. 184 of June 11 last. The Department requests also that you report by telegraph the date of presentation together with any minor changes in the text of the note which you might have considered appropriate, as it is the intention of the Department to present a copy of the note to the Venezuelan Minister in Washington following presentation in Caracas.

With reference to your despatch No. 747 of June 18, 1937, the Department notes that you question the importance of a concession with respect to petroleum in a reciprocal trade agreement with Venezuela. It may be stated in this regard that, as you are probably aware, Government officials in Venezuela and the Venezuelan Minister in Washington have at various times indicated the definite interest of the Venezuelan Government in import taxes imposed by this Government upon Venezuelan petroleum. It would seem, therefore, that notwithstanding representations that may have been made to the Legation appearing to indicate an indifference towards possible concessions by this country in connection with the importation of Venezuelan petroleum, the matter is deemed by the Venezuelan Government to be of sufficient significance in the Venezuelan economy to cause the Government of that country to attach considerable importance to such a concession in any possible negotiations for a trade agreement.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

[Enclosure]

Draft of a Note To Be Presented to the Venezuelan Minister for Foreign Affairs

EXCELLENCY: I have the honor to inform Your Excellency that I have transmitted to my Government the alternative draft general provisions of a possible reciprocal trade agreement between the United States and Venezuela which Your Excellency was good enough to pre-

sent to me on June 14 last, and to say that my Government has directed me to make the following statement:

It has been gratifying to the Government of the United States to learn from the draft general provisions dated June 1937, and recently submitted by the Venezuelan Government, that the governments of the two countries are in accord with respect to a substantial part of the provisions of a reciprocal trade agreement. The Government of the United States has been particularly pleased to find in the first part of Article VI of the draft general provisions a recognition of the most-favored-nation principle as applied to imports into the two countries. It has also been pleased to note that Article IV provides for national and most-favored-nation treatment with respect to internal taxes and charges.

It has been noted, however, that the third limitation placed upon the first part of Article VI of the draft general provisions submitted by the Venezuelan Government would appear to render the most-favored-nation principle with respect to imports non-applicable in "situations created by trade agreements whereby one of the contracting parties obtains from another country advantages in return for equivalent concessions." It is assumed, however, that in drafting Article VI of the draft general provisions, the Venezuelan Government did not intend to propose that the United States would not be given the benefits granted to other countries by Venezuela in trade agreements with them, for the United States has in the recent past been given assurances by the Venezuelan Government of its disposition to continue to grant to the United States unconditional most-favored-nation treatment. Further evidence to support this assumption is found in the position assumed by the Venezuelan Government at the international conference at Montevideo in 1933 and at the recent Inter-American Conference for the Maintenance of Peace at Buenos Aires, endorsing and supporting the principle of equality of treatment in international trade.

As the Government of the United States has previously indicated, it will be disposed to make a preliminary public announcement concerning a trade agreement with Venezuela and to discuss the schedules, as well as details of the general provisions, of such an agreement as soon as the Venezuelan Government has agreed to accept the unconditional most-favored-nation principle as a basis for the general provisions.

The Venezuelan Government is, of course, aware that the Government of the United States has in the past four years been urging the reduction of restrictions upon international commerce and the removal of inequality of treatment of the kind arising from exclusive bilateral agreements, the benefits of which are confined to the parties entering

into the agreements. As its part, the Government of the United States has developed a program of reciprocal trade agreements based upon the unconditional most-favored-nation principle. Since 1934, the United States has concluded sixteen such agreements, and at the present time it is negotiating and exploring the possibilities of additional agreements. It has been the policy of the Government of the United States to extend the concessions granted in these agreements to other countries of the world provided that they are not discriminating against American commerce.

It is of great moment at this time that important commercial nations such as Venezuela continue to give support to the liberal forces of the world which are today endeavoring to widen the adoption of the policy of equality of treatment as an indispensable basis of any substantial and permanent improvement in world commerce and in international good-will, as contrasted with a policy of conditional treatment, involving discrimination, ill-feeling, and unfavorable reactions upon the countries providing discriminatory treatment. The Government of the United States would for this reason, as well as because of the bearing upon a reciprocal trade agreement between the two countries, particularly welcome the continued cooperation of Venezuela in the efforts which the United States is making towards the objective of improving the condition of international commerce.

611.3131/111

*Memorandum by the Second Secretary of Legation in Venezuela (Villard) of a Conversation With the Venezuelan Minister for Foreign Affairs (Gil Borges), July 15, 1937*¹⁹

In an informal discussion of the proposed reciprocal trade agreement between the United States and Venezuela, the Foreign Minister stated that given a certain amount of good will on both sides, he was confident that an accord might be reached in spite of the differences between the two drafts. He did not, however, display the same eagerness and interest in connection with the agreement which he had shown at the initiation of discussions; he pointed out that the United States was already receiving most favored nation treatment from Venezuela and that the recent appreciation in the exchange rate of the bolivar amounted to a substantial reduction in the customs duties on American products. He therefore felt that from the point of view of the United States there would actually be nothing further to be

¹⁹ Copy transmitted to the Department by the Minister in Venezuela as an enclosure to his despatch No. 770, July 16; received July 22.

gained by a trade agreement, and it was obvious that he saw little advantage to Venezuela in such a treaty.

I referred to the general purposes and underlying philosophy of Secretary Hull's trade agreements program, and to the desirability of Venezuela becoming a party to the movement for international peace and understanding which it represented, to which Dr. Gil Borges replied that while he personally subscribed to those doctrines Venezuela was compelled to face the world trade situation realistically. Citing the recent commercial agreement between Colombia and Germany²⁰ as an example, he stressed the present tendency toward barter or compensation arrangements and said that Venezuela could not afford to overlook such modern practices in international trade. He said that Venezuela's policy today was to bring its commercial agreements up to date and that considering the nature of the national economy it would be necessary to look toward methods of trade similar to those adopted by other countries.

The Minister then said that he saw only one serious difficulty in the way of reaching an understanding with the United States in the matter of a trade agreement—that of the unconditional most favored nation principle. Speaking very confidentially, he said that in the case of Germany and Italy, which imposed various restrictions and limitations on Venezuelan trade, he was preparing to abandon the most favored nation principle even though it might involve abrogating existing treaties, because he did not feel his country was justified in according most favored nation treatment to countries which did not reciprocate. In the case of agreements with other countries, Venezuela proposed to revise the terms of those agreements or else enter into new treaties which instead of mentioning most favored treatment would contain barter or compensation provisions. While the United States did not impose any restrictions on Venezuela's commerce, it was a question as to how far he could go in entering upon a reciprocal trade agreement with it based on the unconditional most favored clause, since that would be in conflict with the policy to be adopted toward other countries.

Dr. Gil Borges said that he wished to make it clear that his attitude was not due to any disinclination to proceed with the proposed reciprocal agreement, or to any "ulterior motives" affecting the United States, but that it was based entirely on the existing financial, commercial and economic situation in Venezuela. This situation, he said, had peculiarities which had to be taken into account and that in view of the realistic commercial policy which his country was now committed to, he could do no less than assume a position in keeping with the facts.

HENRY S. VILLARD

²⁰ Clearing agreement signed May 21, 1937; for text, see *Revista del Banco de la República*, June 20, 1937, p. 197.

611.3131/115 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, August 30, 1937—5 p. m.

[Received 6:48 p. m.]

87. My despatch No. 743, June 15, 1937, and Department's instruction No. 192, July 14, 1937.

The Minister for Foreign Affairs handed me today a note which translated reads in part as follows: "My Government agrees to the omission of the third paragraph of Article 6 from the alternative draft which I communicated to Your Excellency, thus recognizing reciprocally unconditional most-favored-nation treatment subject to the limitations established in Article 6 of the said alternative draft".

The Foreign Minister expressed the belief that with this important basic principle agreed upon it should now be possible to make a preliminary public announcement concerning the trade agreement and to proceed with the negotiations.

I shall send a despatch transmitting the full text of the Foreign Minister's note by air mail tomorrow.²¹

NICHOLSON

611.3131/115 : Telegram

The Secretary of State to the Minister in Venezuela (Nicholson)

WASHINGTON, September 4, 1937—3 p. m.

48. Your telegram No. 87, August 30, 5 p. m. You are requested to inform the Foreign Minister that the Department is gratified that substantial agreement has been reached.

It is felt, however, that the reservation which the Venezuelan Government apparently desires to make with respect to Puerto Rico and the Virgin Islands (particularly in so far as it relates to the 30 percent customs surcharge question) would constitute an important derogation from the principle of most-favored-nation treatment. You should point out to him that in accordance with the long-established policy of this Government, all areas under the sovereignty and authority of the United States are included in the most-favored-nation assurances of the commercial treaties and agreements of the United States. Furthermore, you should point out that Puerto Rico is a part of the customs territory of the United States and, as such, is included within the scope of the duty concessions, given by the United States in trade agreements. The President himself has recently expressed in strong terms his view that no distinction should be made between citizens of the United States living on the mainland and citizens in our territories

²¹ Not printed.

and insular possessions. It would therefore be most difficult for the Department to justify the drawing of such a distinction in a trade agreement.

Please inform the Department at the earliest possible moment of the reaction of the Venezuelan authorities to this statement and report whether the situation described in your despatch No. 322 of June 18, 1936,²² continues unchanged.

For your own information, issuance of the preliminary announcement is being deferred until a further study has been made of the 30 percent surtax question. Should the Venezuelan authorities inquire as to the Department's plans with regard to the announcement, you may say that the Department continues to be desirous of issuing it at the earliest moment, but in view of the importance of this matter in relation both to the unconditional most-favored-nation principle and the established policy of the Government of the United States towards its territories and insular possessions, the Department believes that the Venezuelan Government will understand the necessity for some further study and discussion of this matter prior to public announcement of contemplated negotiations.

HULL

611.3131/118 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, September 8, 1937—5 p. m.

[Received 6:06 p. m.]

89. Department's telegram No. 48, September 4, 3 p. m. The Foreign Minister in an interview today expressed his perfect understanding of the Department's point of view and promised to study the matter in the hope of finding a satisfactory solution. He intimated that he might be willing to propose as a compromise the removal of the 30 percent surcharge from products originating in Puerto Rico and the Virgin Islands while transshipped goods would continue to pay the surcharge. I believe this is as far as he would be willing or able to go.

NICHOLSON

611.3131/120 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, September 18, 1937—noon.

[Received 2:31 p. m.]

93. My telegram No. 89, dated September 8, 5 p. m. I have received a note from the Minister of Foreign Affairs reading as follows:

²² Not printed.

"Referring to the Legation's memorandum of September 8, 1937, I have the honor to inform your Excellency that my Government is willing that there be included in the project for a commercial reciprocity agreement, which I submitted to your Excellency, raw and industrial products originating in and exported directly from Venezuela to Puerto Rico and from Puerto Rico to Venezuela."

NICHOLSON

611.3131/122 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, September 25, 1937—2 p. m.

[Received 2:43 p. m.]

95. According to a purported United Press despatch published September 22 in *Crítica*, a Caracas daily newspaper, an official of the State Department had stated that negotiations were being conducted with the Venezuelan Government looking to the completion of a trade agreement. If the Department has made or is ready to make a preliminary announcement regarding the trade agreement the Minister for Foreign Affairs would like to be so informed in order that an announcement may also be made here.

NICHOLSON

611.3131/122 : Telegram

The Secretary of State to the Minister in Venezuela (Nicholson)

WASHINGTON, September 30, 1937—3 p. m.

53. Your telegrams Nos. 93 and 95, September 18 and 25. You are requested to inform the Foreign Minister, at the earliest opportunity, that the Department is gratified by the willingness of the Venezuelan Government to withdraw its reservation with respect to raw and industrial products of Puerto Rico. This Government understands the withdrawal of this reservation to mean that the Venezuelan Government, under a trade agreement, would accord most-favored-nation treatment to products, the growth, produce or manufacture of Puerto Rico exported to Venezuela, and in conformity therewith, would remove the 30 percent surcharge from such products. This Government is happy to accept this offer of the Venezuelan Government even though it does not fully meet this Government's desires in the matter.

Although the Foreign Minister's Note, quoted in your telegram No. 93, makes no mention of the Virgin Islands, it is thought that the omission may be unintentional in view of your telegram No. 89 of September 8. You should inquire as to this and inform the Foreign Minister that it is hoped that the Venezuelan Government's intention is to extend to products originating in the Virgin Islands treatment

similar to that extended to Puerto Rican products. If you find that the omission of the Virgin Islands was intentional, you should point out the negligible amount of exports from the Virgin Islands to Venezuela, and the undesirability of the products of the Virgin Islands receiving different treatment from that accorded Puerto Rican products. In the event the Foreign Minister appears disinclined to yield with respect to the Virgin Islands, you should inform him that, in view of the relatively minor importance of the matter, this Government is willing to leave the question of the Virgin Islands for further discussion during the negotiations.

Inform the Foreign Minister that the Department is prepared to issue preliminary announcement of contemplated negotiations within the next 10 days, if agreeable to the Venezuelan Government. In the event the Venezuelan Government wishes to make a simultaneous announcement at Caracas, the Department will inform you of the exact date of the issuance of the announcement here.

The preliminary announcement will include the statement that at a later date public announcement will be made of the products under consideration as subjects for concessions to be granted to Venezuela. This second announcement will constitute a formal invitation to our domestic interests to submit briefs with respect to the listed products and will set a date for public hearings before the Committee for Reciprocity Information. Meanwhile, it is expected that negotiations will actively be proceeding with a view to the conclusion of an agreement as soon as practicable following completion of the above-mentioned public hearings in this country which the Trade Agreements Act requires.

If you find it advisable, you may point out to the Foreign Minister that the foregoing involves only our own procedure here and that it does not involve our making public announcement, prior to conclusion of the agreement, of the products on which we shall seek concessions from Venezuela.

Press despatch published September 22 in *Crítica* to the effect that announcement has been made is incorrect.

HULL

611.3131/124 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, October 4, 1937—4 p. m.
[Received 7:05 p. m.]

97. Department's telegram No. 53, September 30, 3 p. m. The Minister for Foreign Affairs wishes the preliminary announcement to be made simultaneously in Washington and Caracas and will advise

within a few days when his Government will be ready. He understands that the basis of the agreement on the general provisions thus far reached is his own draft proposal of June 14 as subsequently amended respecting the most-favored-nation principle and the inclusion of Puerto Rico. The final text might modify the form but not the content of his draft thus amended. Kindly advise me if the Department is of the same understanding, as there should be definite agreement on this point before any announcement is made.

I anticipate no objection to the inclusion of the Virgin Islands in the agreement. The Minister for Foreign Affairs is willing personally that they be included on the same condition as Puerto Rico but must consult other branches of his Government before giving his official consent.

NICHOLSON

611.3131/124 : Telegram

The Secretary of State to the Minister in Venezuela (Nicholson)

WASHINGTON, October 7, 1937—7 p. m.

56. Your telegram No. 97, October 4, 4 p. m. You should inform the Foreign Minister that, as has been stated on previous occasions, the Department has not considered it necessary that the two governments should reach definitive agreement on the general provisions prior to the public announcement of contemplated trade agreement negotiations. The Department has felt that once the two governments had agreed, as is now the case, on the broad principles underlying such provisions, there would be sufficient basis for negotiations and that any relatively less important points of differences between the two drafts could be composed during the negotiations. In view of the agreement already reached with respect to the unconditional most-favored-nation principle as applied to all forms of trade control measures, no insurmountable difficulties are foreseen which would prevent final agreement on the general provisions. It will be recalled that the Department did not request complete acceptance of its draft general provisions by the Venezuelan Government prior to preliminary public announcement. Nor has it examined the Venezuelan draft general provisions with a view to giving a final commitment with respect thereto prior to such announcement. The Department believes that the Venezuelan Government will agree that it would be difficult, if not impossible, for either government to attempt to reach complete agreement as to the general provisions before any consideration has been given to the schedules which will form an integral part of the agreement. Moreover, in the case of the Government of the United States, consideration must be given to any views

which may be presented at the public hearing subsequent to public announcement before it will be in a position to enter into a definite commitment concerning either the general provisions or the schedules.

In view of the foregoing, the Department hopes that the Foreign Minister will agree to an early date for the simultaneous issuance in both capitals of public announcement that a trade agreement is contemplated, leaving the composition of any remaining differences between the two drafts of the general provisions to be worked out following such announcement.

For your information, the Department desires to make the preliminary public announcement as soon as practicable and if possible to issue the formal notice and complete the public hearings in the United States before the end of the year.

HULL

611.3131/127 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, October 19, 1937—6 p. m.

[Received 6:30 p. m.]

99. Department's telegram No. 56, October 7, 7 p. m. and my telegram No. 98, October 15, 6 p. m.²³

The Venezuelan Government is now ready to have the preliminary announcement made simultaneously in Washington and Caracas. Please inform me by telegraph when announcement will be made. The Foreign Minister prefers that no lists be published pending the informal exchange referred to in the second paragraph of my telegram No. 98.

A copy of the Foreign Minister's note of today's date agreeing to announcement and enclosing his amended draft general provisions is being forwarded by air mail today with my despatch No. 847.²⁴

NICHOLSON

611.3131/127 : Telegram

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

WASHINGTON, October 20, 1937—6 p. m.

58. Your 98 October 15, 6 p. m.²⁴ Your 99 October 19, 6 p. m.

²³ Latter not printed.

²⁴ Not printed.

1. Inform the Foreign Minister that preliminary announcement that negotiations are contemplated will be issued here for publication in morning newspapers Tuesday, October 26.²⁵

2. In accordance with the customary procedure followed here, the preliminary announcement will state that informal suggestions from the public in this country, concerning products for consideration in connection with the proposed trade agreement with Venezuela, will be received by this Government for a period of 1 month following the date of issuance of such announcement.

3. As soon as practicable after the close of the aforementioned period, the formal public notice of intention to negotiate a trade agreement with Venezuela will be issued. A list of products on which the United States will consider granting concessions to Venezuela will be published with the formal notice, which fixes the dates for the presentation of written briefs, and for the public hearing.

4. Therefore, as soon as the preliminary announcement is made, you should ask the Venezuelan Government to submit as soon as possible a list containing descriptions of any products on which it is interested in obtaining concessions. You should point out to the Venezuelan Government, in this connection, that it is the general practice of this Government to limit the concessions which it grants to a country in a trade agreement to products of which that country supplies a principal or important proportion of the total imports of such products into the United States. With this in mind, the list submitted by the Venezuelan Government should be comprehensive and established with as great care as possible since once this Government publishes a list along with the formal public notice, new items cannot be added thereto without the issuance of an additional public announcement giving opportunity for the presentation of briefs and hearings.

5. You should assure the Foreign Minister that the list of products on which this Government will consider granting concessions to Venezuela will not be published before it has been approved by the Venezuelan Government. It should be clearly understood, however, that the proposed publication of this list in connection with the formal public notice will not constitute a commitment by this Government to grant concessions with respect to all of the products contained therein. The purpose of publishing the list is to give notice to the American public of all products under consideration as possible subjects for the granting of concessions to Venezuela in order that all interested persons may know whether there is occasion for presenting views.

²⁵ Department of State, *Press Releases*, October 30, 1937, p. 323.

6. As stated in the penultimate paragraph of the Department's telegram No. 53, September 30, 3 p. m., the procedure here does not involve this Government's making public, prior to the conclusion of the agreement, the products on which concessions will be requested from Venezuela.

7. A tentative list of products on which concessions may be requested from Venezuela is being sent you by air mail. If the Foreign Minister requests it you may give him a copy of that list when he furnishes the above-mentioned list of products on which Venezuela desires concessions. In that event, however, you should explain to the Foreign Minister that it is not possible to give him a definitive list of products or to indicate the nature or extent of the concessions desired thereon prior to the termination of public hearings in this country. Subsequent to such hearings, the Department will provide you with proposed Schedules I and II for use in the negotiations.

WELLES

611.3131/128 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, October 21, 1937—5 p. m.

[Received 5 : 35 p. m.]

101. Department's telegram No. 58, October 20, 6 p. m. Simultaneous announcement that negotiations are contemplated will be issued by the Venezuelan Government for publication Tuesday morning October 26.

NICHOLSON

611.3131/126

The Secretary of State to the Minister in Venezuela (Nicholson)

No. 223

WASHINGTON, November 2, 1937.

SIR: The Department refers to paragraph seven of its telegram no. 58 of October 20 last with respect to the proposed trade agreement between the United States and Venezuela, and encloses a tentative list of articles on which concessions may be requested from the Venezuelan Government. A copy of this list should be given to the Minister for Foreign Affairs only in the event that he should request it when furnishing you with a list of products on which the Venezuelan Government desires concessions. If you should supply the Minister with a copy of the enclosed list, you should, as stated in the Department's telegram under reference, explain that it is not possible to give

the Venezuelan Government a definitive list of products or to indicate the nature or extent of the concessions desired thereon prior to the termination of public hearings in this country. You should state also that the nomenclature in the list is subject to modification.

Very truly yours,

For the Secretary of State:

FRANCIS B. SAYRE

[Enclosure]

Tentative List of Articles on Which the United States May Request Concessions From Venezuela (Subject to Modification as a Result of Public Hearings)

*Venezuelan
Tariff Item*

Ex— 3-D	Canned salmon
Ex— 3-H	Canned mackerel
Ex— 3-E	Sardines, canned in oil, except in olive oil
Ex— 3-E	Sardines, canned in sauce (including tomato sauce) or in their own juice
Ex— 3-F	Shellfish, canned
4	Hog lard
7	Bacon
8	Eggs in the shell
9	Prepared milk (evaporated, condensed, dried whole, dried skimmed)
12-A	Potatoes (except seed potatoes)
Ex— 12-C	Canned vegetables, soups and sauces
Ex — 13-B	Apples, pears and grapes (fresh)
14-C	Dried fruits
15-A and B	Canned fruit, in juice or in syrup
22-B	Oatmeal and rolled oats
27-A	Wheat flour
36-A	Hams
36-C	Canned pork, including canned sausage
37	Infants' food, malted milk, etc., including cacao content up to 20%
Ex— 44	Crackers and biscuits (unsweetened)
86-A	Cotton canvas, over 250 grams per square meter, not rubberized
92	Rubberized cotton cloth
99-C	Cotton shirts and shirt fronts
Ex—143-A	Silk hosiery
156-A, B, C, and D	Oilcloth

*Venezuelan
Tariff Item*

Ex—186—C	Upperleather, including patent leather
229, and	
internal tax	Cigarettes
230—B	Sawn timber and rough lumber, measuring 25 centimeters or less in thickness at both ends, including pitch pine,* Ponderosa pine,† sugar pine, Douglas fir,‡ spruce, hemlock, redwood (sequoia), cedar, and Southern cypress, and including also plywood of the aforementioned woods.
243	Writing paper, not printed or lithographed, unlined, not in pads
270—B	Lubricating oils
Ex—270—M	Lubricating greases
270—D	Paraffin
298—J	Iron and steel sheets, galvanized
298—L	Tin plate
Ex—319—D and	
306—B	Metal filing cabinets and safes
Ex—319—A, B, C	
and E	Metal furniture and fixtures
Ex—319—E	Metal beds, springs, etc.
320—A	Chassis for motor trucks and busses
321	Passenger automobiles, crated and uncrated
322—A, D, E, F,	
G, H and K	Automobile parts and accessories
322—B and C	Tires and tubes
Ex—330—A, B, C,	
and D	Radio receiving sets
330—E	Radio receiving set parts, including tubes
332—A and B	Motion picture film (silent and sound), printed and unprinted
333—A, B, C	Electric refrigerators and parts (household and commercial)
and D	
338—A and	
Ex—356	Sewing machines and parts
344	Typewriters, and accessories, including parts, stands, covers, and cases
345	Calculating, adding and accounting machines, electrical and non-electrical, and parts, stands, and accessories

*Sometimes called American southern pine.

†Sometimes called California white pine.

‡Sometimes called Oregon pine. [Footnotes in the original.]

<i>Venezuelan Tariff Item</i>	
346	Cash registers, including those with printing devices, and parts, stands and accessories
347	Scales and balances, except precision and laboratory scales
348 and	
Ex—356	Internal combustion engines, and parts
349	Spark plugs
357	Pharmaceutical specialties, including proprietary medicines, not specified
358—C	Absorbent or medicinal cotton (not including bandages)
358—D	Pharmaceutical preparations, not specified
359	Dentifrices
364—A	Chewing gum
Ex—367—B	Shaving soap, in any form
367—C and	
Ex—367—D	Medicated soap (perfumed or unperfumed)
370	Varnishes and lacquers
Ex—371—A	Ready-mixed paints, in oil, liquid
371—B	Varnish-paints and enamels
385	Ferments, including yeast
405	Dry batteries, including flashlight batteries
406	Storage batteries
Ex—422	Transmission belting, leather and rubber
Ex—424	Gauze and sterilized bandages
442	Toilet paper
Ex—451	Tractors and parts (wheel and track-laying)
472	Lumber of white pine, § pitch pine, Douglas fir, redwood (sequoia), hemlock, spruce and cedar, sawn, rough, measuring more than 25 centimeters in thickness at both ends.

611.3131/145

The Minister in Venezuela (Nicholson) to the Secretary of State

No. 870

CARACAS, November 13, 1937.

[Received November 18.]

SIR: I have the honor to refer to the Department's airmail instruction no. 223 of November 2, 1937, transmitting a tentative list of prod-

§ Sometimes called American southern yellow pine.

|| Sometimes called Oregon pine. [Footnotes in the original.]

ucts on which concessions may be requested from Venezuela in the formal negotiations for a trade agreement.

In an informal meeting at the Legation November 10 to discuss a form of procedure for the ensuing negotiations, Sr. Ramon Eduardo Tello, the representative of the Ministry of Finance designated for this purpose, stated that his Government would have ready for exchange on or before November 25 a similar tentative list of products exported from Venezuela to the United States which it would like to have included in the negotiations.

It was agreed, subject to approval by the Department, that a period of about three weeks should be allowed to elapse thereafter in which each Government would have time to study the tentative list of the other and prepare a second list, comprehensive and established with as great care as possible, for exchange about December 15. Unless no obstacle then appeared, the Venezuelan Government would approve the publishing of this second list in connection with the formal notice by the United States Government fixing the dates for the presentation of written briefs and for the public hearings.

I shall forward by airmail as soon as it is received the tentative list of the Venezuelan Government.

Respectfully yours,

MEREDITH NICHOLSON

611.3131/151

The Minister in Venezuela (Nicholson) to the Secretary of State

No. 882

CARACAS, November 24, 1937.

[Received November 29.]

SIR: I have the honor to refer to my despatch no. 870 of November 13, 1937, and to report that this morning I exchanged with Sr. Ramon Eduardo Tello, the representative of the Ministry of Finance, preliminary lists of the products for discussion in the trade agreement negotiations.

The Venezuelan list, a copy and translation of which I enclose herewith,²⁶ is very general in character, and represents, according to Sr. Tello, a compendium of the petitions that have been received by the Ministry of Finance as a result of the preliminary announcement issued on October 26,²⁷ as well as various suggestions from other Ministries. The very nature of its compilation may therefore explain the fact that no petroleum product is included, though as I have previously pointed out the Venezuelan Government has been cold to the suggestion that a concession on petroleum would be of any real benefit to this country.

²⁶ Not printed.

²⁷ Department of State, *Press Releases*, October 30, 1937, p. 323.

The Ministry of Finance expects to have its list in shape for publishing within approximately three weeks, prepared in the detail necessary for specific classification under the appropriate heads of the United States Customs Tariff. I have provisionally arranged, therefore, for an exchange of more definitive lists for this purpose about December 15.

In elucidation of some of the items on the preliminary Venezuelan list, the representative of the Ministry of Finance furnished supplementary information which I have included in the translation in brackets immediately following the respective items concerned.

A number of interviews have been held at the Legation during the past two weeks with representatives of American manufacturers concerning various articles enumerated on the Department's preliminary list and concerning some which it may be desirable to add to the list. Short studies are being prepared regarding these items and will be forwarded to the Department at the earliest possible opportunity. The following are the articles suggested for inclusion on which a request for concession would appear to be the most justifiable:

Cosmetics (only those items in which the United States furnishes the major part)—principally included in Tariff Nos. 366 A, C and I.

Glass bottles—Tariff Nos. 263 C, D, and E.

Glass blocks—Tariff No. 263 J.

Metal furniture—Tariff Nos. 319 A–E.

Cellophane sheets—Tariff No. 255.

Cellophane bags—Tariff No. 258 L.

Silk and rayon garments other than hosiery—Tariff Nos. 143 A and B.

It is noted that the Department has included on its list both oil base paints and varnish base paints. The representative of the Du Pont paints has pointed out that the former pay only Bs. 0.50 today as opposed to Bs. 1.50 levied on the latter; that the American shipments consist primarily of the varnish-base type, and that any reduction in the duty on oil base paints could not but prejudice sale of the latter. He recommends very strongly that no concession be sought under the circumstances on oil-base paints.

Respectfully yours,

MEREDITH NICHOLSON

611.3131/145 : Telegram

The Secretary of State to the Minister in Venezuela (Nicholson)

WASHINGTON, November 27, 1937—3 p. m.

67. Your despatch no. 870, November 13. The Department does not intend to add to its tentative list of products on which concessions

are desired, prior to the holding of public hearings following the next public announcement, but it has no objection to the Venezuelan Government revising within the next few days the list which it is now presenting to you. You should say to the Venezuelan authorities, however, that it is hoped that the Venezuelan Government may find it possible to expedite any revision of its list in order that the second public announcement may be made at an early date.

HULL

611.3131/160 : Telegram

The Minister in Venezuela (Nicholson) to the Secretary of State

CARACAS, December 11, 1937—noon.

[Received 1:35 p. m.]

109. My despatch No. 882, November 24. The representative of the Ministry of Finance informed me yesterday that the cabinet had decided to request no concession on petroleum as it believed the United States would ask in return therefor concessions on American products corresponding in value to Venezuelan petroleum exports to the United States. The Venezuelan Government will not consider bargaining on this basis. If the Department wishes to reassure the Venezuelan Government on this point it is possible that petroleum may be added to the list.

Please instruct by telegraph.

NICHOLSON

611.3131/160 : Telegram

The Secretary of State to the Minister in Venezuela (Nicholson)

WASHINGTON, December 17, 1937—3 p. m.

71. Your telegram no. 109, December 11, noon. You should point out to the appropriate Venezuelan officials that, in possible anticipation of the Venezuelan list, the products under consideration by this Government for possible trade agreement concessions to Venezuela, constituted in 1935 more than 90 percent in value of total United States imports from Venezuela. On the other hand, the products contained in this Government's tentative list, handed the Venezuelan Government, on which trade agreement concessions may be requested from Venezuela, constituted in 1935 only about 41 percent of United States exports to Venezuela.

According to United States figures total imports into the United States from Venezuela in 1935, were valued at \$21,455,377. Products under consideration by this Government for possible reductions and

bindings in import taxes in a trade agreement with Venezuela, were valued at about \$19,610,000 in 1935.

Total United States exports to Venezuela in 1935 were valued at about \$18,390,000. The products contained on this Government's tentative list, on which either bindings or reductions may be requested from Venezuela, were valued at about \$7,585,000 in 1935.

From the above figures it is evident that this Government has not approached 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. In fact to do so would be inconsistent with this Government's policy as embodied in trade agreements.

The policy of this Government 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, this country has in general followed the rule of principal supplier. In selecting the products included in its tentative list for submission to the Venezuelan Government, this Government was largely guided by this country's 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.

HULL

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